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POLITICAL SCIENCE QUARTERLY

JAMES BRYCE AND THE ACADEMY OF POLITICAL SCIENCE

IN the long list of European commentators on American thought and institutions no name stands higher than that of James Bryce. Born in Belfast in 1838, at the moment that Great Britain was preparing for the coronation of Victoria, Bryce was educated at Glasgow and at Oxford. He somehow escaped that insular outlook which circumscribed the interests of so many contemporary Victorians. In 1870, already distinguished among historians for his provocative work on the Holy Roman Empire, and recently named regius professor of civil law at Oxford, he made his first trip across the Atlantic. From that time, until the day of his death in 1922, he was an eager student of social and political institutions in every part of the world. But the American scene intrigued him most.

When *The American Commonwealth* appeared, just fifty years ago, it was quickly hailed as a classic. In its pages, as G. P. Gooch once remarked, Bryce succeeded in interpreting Americans "not only to their Anglo-Saxon cousins, but to themselves." He was sympathetic though frank, critical but not censorious. If he missed some of the significant economic and political background, his descriptive analysis revealed the hand of a master. Of political theory there was little, but the photographic eye of the observer had seen many things of which his contemporaries, even in America, seemed unaware. In his review of Bryce's volume in the POLITICAL SCIENCE

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QUARTERLY,[1] Woodrow Wilson wrote: "This is a great work, worthy of heartiest praise. Its strength does not lie in its style, although that, while lacking distinction, is eminently straightforward and clear; nor yet altogether in its broad scope of weighty topics,—a scope wide almost beyond precedent in such subjects, and rich in suggestion,—but chiefly in its method and in its point of view. Mr. Bryce does not treat the institutions of the United States as experiments in the application of theory, but as quite normal historical phenomena to be looked at, whether for purposes of criticism or merely for purposes of description, in the practical, every-day light of comparative politics. He seeks to put American institutions in their only instructive setting—that, namely, of comparative institutional history and life."

Some twenty years after the publication of his great work Bryce came, as British ambassador, to live in the country which he had so convincingly described. Probably no act of the British government has ever been so warmly applauded by Americans. In Washington he completed the task of reconciliation, begun by Lord Pauncefote at the turn of the twentieth century, after the quarrel over the Venezuelan boundary. But Bryce's greatest service lay outside the official responsibilities of his ambassadorial office. His eagerness to acquire a more intimate knowledge of American life carried him on long lecture tours into every section of the nation. His friends became legion, and the range of his interests seemed boundless. Important among the organizations which elicited his enthusiastic support was the Academy of Political Science. He numbered many of its leaders among his close friends; its efforts to "popularize the growing literature of political science" and to stimulate discussion of the conditions and problems of democratic government were close to his heart.

It was singularly appropriate, therefore, that on the eve of Bryce's retirement from his ambassadorial post, and shortly before his seventy-fifth birthday, the Board of Trustees should choose him to be the first honorary member of the Academy

[1] Vol. IV (1889), pp. 153-169.

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of Political Science. For almost nine years thereafter he was the only person so honored. The certificate of membership was formally presented on February 24, 1913, at a special meeting held in the trustees' room of Columbia University. Professor Samuel McCune Lindsay, then President of the Academy, presided and happily described the close relation between Mr. Bryce's contributions to political science and the continuing purposes of the Academy. In presenting the certificate of honorary membership President Nicholas Murray Butler recalled Mr. Bryce's distinguished career in academic as well as in governmental circles. Addressing his friend, he said: "My colleagues have given me the grateful privilege of transmitting to you, sir, this formal certificate to mark the honorary relation in which they are glad to know that you are hereafter to stand to this Academy. . . . You have stood in a peculiar relation to those of us who are students of public affairs, and especially to those of us who have had some part in the shaping of international opinion and in the conduct of international relations. One of our colleagues at this university, who has the happy and inveterate habit of mixing wit with his wisdom, has said that it was given to you to invent the Holy Roman Empire and to discover the American Commonwealth. We are glad that you have given us the two well-known books on these subjects. But you have done much more than that. Somewhere in your writings—I think it was in your biographical essay on your friend, Lord Acton—you have made a statement which has seemed to me to be very true of yourself, namely, that in estimating the great things of history Lord Acton had not overlooked the significance of the smaller things and so had not lost his sense of proportion in dealing with matters of history and politics. . . .

"We greatly hope that out of your visits to South Africa, to Australia, to Canada, to Latin America, and out of your wide and minute knowledge of the United States, there may yet come a critical study and interpretation of the whole modern democratic movement. We need this study and interpretation of democracy, not only from the point of view of political institutions, but from that of its personal, its social,

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and its economic results, together with its effect upon individual human beings and upon the life and progress of humanity as a whole. . . .

"And so, sir, in handing you this certificate of membership, I do so on behalf of this company of friends, friends who have become such through knowledge of your personality, through the sympathetic and attentive following of your public career. When you go back to Great Britain to take up the duties that await you there, you carry with you the full weight of the affection and regard of the American people, and of none more than those who are assembled in this room, who have formed the habit of looking up to you as a guide and philosopher, and as a true and well-tried friend."

As its tribute to the memory of James Bryce, on the centenary of his birth, the Academy of Political Science is pleased to print once more the felicitous remarks which he made a quarter-century ago, when he accepted honorary membership in the organization whose work he had so greatly aided.

REMARKS OF MR. BRYCE

"*Mr. President, Professor Lindsay and Gentlemen:*

"I can hardly find words to express my sense of the honor you have done me and of the gratification given me, both by the honorary membership in your Academy which has been conferred upon me, and also by the terms in which that has been conveyed to me by my old and valued friend, the president of your university, and by Professor Lindsay.

"It would be superfluous for me to attempt to say—because I know that you must feel yourselves—how large a part friendship has had in dictating the words which President Butler has let fall; it would be superfluous for me to say that the words he has used express an estimate of my aspirations rather than of my achievements. Nevertheless I am cheered by his words and by your kindness to believe that some good may have been done and I am encouraged to use whatever of life and strength may remain to me in the persevering endeavor to elucidate some of these complex phenomena of government whose comprehension will enable us in some measure to understand other

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countries in their reality, and to appreciate the character of their people.

"I do not think that any greater service can be conferred upon the world by learned men who are trying to find solutions for all the problems that press upon us than by the creation of bodies such as this Academy, bodies which devote themselves to a scientific investigation of government, economics, administration, and what is called social science in general. You here are confronted by a number of problems probably more difficult and intricate than any other country has ever had to face. In some ways they are more complex than in Europe; yet in many respects they are not so dangerous, and often they are easier to face than the problems of European countries. No greater service can be rendered toward the solution of these problems than by the cultivation of patient and impartial thought. Thought governs the world; seeming to be ruled by votes, the world is actually ruled by thought. All the great movements of the world have begun from the thought of a comparatively small number of geniuses marking out the lines; they were followed by others who devoted their lives to developing the ideas and examining the facts to which the principles ought to be applied.

"The need was never greater than now. Just because we are apt to be carried away by popular passion, it is the more necessary that all these things should be investigated by such a body as your Academy in the spirit that I have sought to indicate. It is not merely the political problems, urgent though they be, to which I refer. I speak also of economic problems, which are becoming increasingly important with the immense increase of wealth, the development of communication and transportation, and the growth of those closer relations which now exist between all parts of the world. I have likewise in mind what we call social questions. There is a surprising growth of active philanthropy. There is a stronger feeling than ever before of the responsibility of the rich for the poor and of the necessity of applying our ethical and religious principles to bettering the lot of those who most need it. The difficulty is to know how to do it. The difficulty is to know

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how you can help others without superseding the help which they ought to give themselves. In all that immense field there is need for the closest study of social schemes and theories and of the methods of social reform that ought to be adopted. I believe that your Academy will be just as useful in grappling with these social problems as it will in dealing with political questions.

"I should like, in saying that, to express the recognition of our English students of the value of your journal, the *Political Science Quarterly*, which is so ably edited by the university faculty of political science. We have nothing like it in our own country, and I am not sure that a similar publication would secure the number of readers necessary for its support. I have read it assiduously since its foundation and I have never opened it without being enlightened, and I sincerely hope that under the auspices of the Academy it will continue to flourish and render service to you and to us as it has done heretofore.

"I will only add further, Mr. President, that I am deeply touched not only by your references to our old friendship but by what you say with regard to whatever work I may still hope to do. I have planned to write something, not of so large a scope, and I am afraid not venturing to attempt such heights, as you have indicated, but still something of the kind to which your words pointed. I am much encouraged by your words and by those of my other friends to go on and to devote to the task whatever time and strength my small powers will permit.

"Let me say further that when I return home there will be nothing which I shall prize more highly than the opportunity to help to make known to the English people the true feelings of the American people. I shall assure them, as I know I confidently can, of the friendship of this country and of the strong desire which exists—and which is the desire of my own people as well — that the United States and Great Britain should walk hand in hand and should together hold aloft that torch of liberty that our common ancestors lighted so many centuries ago.

"I may say that since I have been here I have come to realize more and more what is the pacific and honorable atti-

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tude of your people. I am more than ever convinced that the cause of arbitration and world peace will prosper pretty much in proportion as it has the loyal adherence of the United States government and people.

"May I say further, as it has been my privilege in time past in England — and here I speak for my wife as well as for myself—as it has been our joy and delight frequently to see our American friends when they come over and to do what we could to help them, so it will be a continual privilege to us to meet you and your friends and to do what we can for you, whether by putting you in touch with our people or by supplying information to your Academy with regard to what is going on in Britain.

"It is a great privilege to be able to feel oneself, if not technically at least practically, a citizen of two such countries. You have made me a citizen of your country and I shall never forget that privilege. Whatever I can do to aid you and yours, that I shall do in unforgetting remembrance of your kindness."

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THE ASSUMPTIONS OF DEMOCRACY

IT is the purpose of this paper to deal with the basic assumptions of democracy. A more complete discussion of this topic would include the methods by which such assumptions may be validated in practice through a program of action. It would also embrace a discussion on the counter-assumptions of aristocracy—old and new—and the ways and means of validating the assumptions of aristocracy. It would then be pertinent to compare the opposing assumptions and their modes of validation, and to draw such conclusions as might seem evident.

Such a larger inquiry the writer has in process of completion, but for this present purpose deals merely with one phase of the larger subject, namely, the assumptions of democracy, without regard to program or to competing assumptions and program.

Democracy is a form of political association in which the major decisions upon the political policy of the commonwealth are habitually determined by the bulk of the community.

It is important at the outset to eliminate some of the techniques or instrumentalities with which democracy is sometimes confusedly connected or identified by various thinkers. It is a matter of regret that there is not room here to discuss these in detail, but a general statement of them will serve to pave the way for the analysis of the positive premises of democracy.

In general theory democracy is not identifiable with: (1) any special size or area of organization, such as a city-state, a nation-state, or a world-state; (2) any particular form of economic organization, agrarian, industrial, capitalistic, socialistic, state capitalistic, or otherwise; (3) any special form of centralization or decentralization of powers or functions, as federal or centralistic, or any special form of the separation or balance of power among agents of authority; (4) any particular form of "strong" or "weak" government in which

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such "strength" or "weakness" is construed as an evidence of more or less democracy, pro rata; (5) any particular form of representative organization, such as unicameral, bicameral, multicameral, or basis of representation as regional, or occupational; (6) any particular form of doctrine or organization affecting the scope of governmental powers, whether narrow, medium or wide.

In specific situations the realization of the essential goals of democracy may indeed be associated with one mechanism or instrumentation as over against another. But the hard and fast rule may not be laid down that by such and such an instrumentation, and that alone, may the ends of democracy be realized, no matter what the concrete situation.

What are the assumptions of democracy, and what are the ways and means by which these assumptions may be validated in the policies of a community, and in their administration? I am stating democratic theory in a form perhaps not recognized as orthodox by all the high priests of democracy. The principal assumptions of democracy are as follows:

1. The essential dignity of man, the importance of protecting and cultivating his personality on a fraternal rather than on a differential principle; and the elimination of special privilege based upon unwarranted or exaggerated interpretation of the human differentials. 2. A constant drive toward the perfectibility of mankind. 3. The assumption that the gains of commonwealths are essentially mass gains and should be diffused as promptly as possible throughout the community without too great delay or too wide a spread in differentials. 4. Popular decision in last analysis on basic questions of social direction and policy with recognized procedures for the expression of this decision and its validation in policy. 5. Confidence in the possibility of conscious social change accomplished through the process of consent rather than by the methods of violence.[1]

[1] For some general discussions on the assumptions of democracy see: Bryce, James, *The American Commonwealth* (London and New York, 1888), *Modern Democracies* (New York, 1921); Kelsen, Hans, *Vom Wesen und Wert der Demokratie* (Tübingen, 1929); Lindsay, Alexander D., *The Essentials of*

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I

An assumption of the doctrine of democracy is that of the essential dignity of all men and the importance of protecting and cultivating personality primarily on a fraternal rather than on a differential basis.[2]

It is, of course, quite possible that under various systems of social or political order the dignity and worth of all men might be fully recognized and amply protected; or *per contra* that mass rule might give merely lip service to the doctrine. But, in general, the practice has been otherwise. In a caste system, such as that of India, the lower castes may be respected but in a very lordly manner; and when we reach the pariahs the dignity remaining is very minute. The untouchables must not even cast a shadow upon the higher types of mankind—their betters. Slaveowners may also manifest deep interest in their slaves and respect the dignity of their slave personality, but in other instances sell them like chattels or beat them like dogs. Patrimonial rulers may also exhibit fine types of patronage to their serfs and tenants, but again there are many pictures of sad neglect and haughty treatment unworthy of the dignity of the race.

Even the nineteenth-century attitude toward the majority of the people — the poor — in England seems almost incredible today, so callous was it in nature. Preachers, economists, lords and ladies thought of the "lower classes" only to scoff at their ill manners, and to assail them for daring to protest at their God-given lot. Lord Shaftesbury, in a speech before Parlia-

Democracy (Philadelphia, 1929); Laski, Harold J., *Democracy in Crisis* (Chapel Hill, 1933), *The Foundations of Sovereignty* (New York, 1921), *A Grammar of Politics* (London, 1925), *Liberty in the Modern State* (New York and London, 1930), *The State in Theory and Practice* (New York, 1935); Dewey, John, *The Ethics of Democracy* (Ann Arbor, 1888), *Democracy and Education* (New York, 1916), *Individualism Old and New* (New York, 1930), *Liberalism and Social Action* (New York, 1935), *The Public and Its Problems* (New York, 1927); Tawney, Richard Henry, *Equality* (New York, 1931); Bouglé, Celestin C. A., *Les idées égalitaires* (Paris, 1899), *La démocratie devant la science* (3d ed. Paris, 1923).

[2] See Durkheim, Émile, *De la division du travail social*, Book I (Paris, 1902).

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ment in 1864, quoted "a lady who complained that she could not have her chimneys swept in the afternoon, because the boys were at school: 'A chimney sweep indeed, wanting education! What next?'"[3] And there are many other instances of the same type of reaction.

Even the clergymen became infected with the spirit of the times. On the poor laws the Reverend Townsend commented:

> It seems to be a law of nature that the poor should be to a certain degree improvident, that there may always be some to fulfill the most servile, the most sordid, and the most ignoble offices in the community. The stock of human happiness is thereby much increased, whilst the more delicate are not only relieved from drudgery, and freed from those occasional employments which would make them miserable, but are left at liberty, without interruption, to pursue those callings which are suited to their various dispositions, and most useful to the State. As for the lowest of the poor, by custom they are reconciled to the meanest occupations, to the most laborious works, to the most hazardous pursuits; whilst the hope of their reward makes them cheerful in the midst of all their dangers and toils. . . . When hunger is either felt or feared, the desire of obtaining bread will quietly dispose the mind to undergo the greatest hardships, and will sweeten the severest labours. The peasant with a sickle in his hand is happier than the prince upon his throne.[4]

It is quite evident that the given rulers felt relatively little or no responsibility for the condition of the majority of the human beings under their governance. Nor were they far removed in spirit from those individuals who showed their idea of the nature of poverty by enacting in 1697 a law to deter "idle, sturdy, and disorderly beggars" from seeking public aid, an act by which every pauper—man, woman and child—was made an object of public notice and scorn. For on the shoulder of the right sleeve of the outermost garment each was obliged to wear, in red or blue cloth, a Roman P, as

[3] Hammond, J. L. and B., *Lord Shaftesbury* (London, 1925), p. 232, "Speech on Climbing Boys' Bill", June 3, 1864.

[4] Webb, Sidney and Beatrice, *English Poor Law History*, Part II, *The Last Hundred Years*, Vol. 2 (London, 1929), quotes Joseph Townsend, *A Dissertation on the Poor Laws*, 1785 (reprinted 1817), pp. 8, 9.

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well as the initial of the parish of which he was a resident—a veritable badge of poverty and shame.[5]

Later on, when the question of a ten-hour day for adults was raised, Bright, a prominent employer objected:

> Why are we mill-owners . . . to be selected as subjects of interference? Why is a Scotchman to be sent to see how I work my people, while the farmer, and the carpenter, and the builder, and the tailor is left to the ordinary responsibilities of law and public opinion? . . . I have advised my partners, if this machinery Bill passes, to set the example of turning the key on the doors of our mills, and to throw on the legislators the responsibility of feeding the millions whom they will not allow us to employ with a profit.[6]

In regard to the Chimney Sweepers' Regulation Bill, the Earl of Lauerdale remarked:

> This species of legislation he would resist to his latest breath; and he could only account for its introduction on the score that every man who got into parliament thought himself bound to propose some novel measure, in order to become popular. . . . If their lordships were determined to adopt such a course, they must introduce a code of moral legislation unknown to their ancestors, and quite unsuited to their habits and laws. The better way, in his judgment, would be to leave reforms of this kind entirely to the moral feeling of, perhaps, the most moral people on the whole face of the earth. At all events, he disliked a prophetic legislation, which pre-supposed that our successors would be neither so enlightened or benevolent as ourselves, and accordingly bound them over to their moral good behaviour.[7]

The nineteenth century is rich in examples of upper and middle class indifference to the welfare of the masses. Brute force was the favorite remedy for popular misery; intelligent understanding was rare.

[5] 8 and 9 W III, c. 30, s. 2 (1697).

[6] Dicey, A. V., *Law and Public Opinion in England* (London, 1905), p. 235—from Simpson, *Many Memories of Many People*, pp. 263-64 (Bright, September 15, 1855).

[7] *Hansard's Parliamentary Debates*, 1st series, Vol. 39 (1819). Earl of Lauerdale, Chimney Sweepers' Regulation Bill, March 8, 1819 (House of Lords).

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> Typical of the ideas of the monarchs of the time is the following statement of Charles Felix of Savoy, "At the beginning of my reign (1820) everything was a mystery to me. I did not know what to write or what to answer. Then I made the sign of the cross, recommended myself to the adorable Trinity, and God willed that my decisions should be worthy of a Christian prince." [8]

To believe in the concepts underlying democratic government was a criminal offense.

> The words liberty, justice, happiness of the greatest number are infamous and criminal: they give to the mind the habit of discussion and of distrust. This fatal habit of distrust once contracted, human weakness applies it to everything, man comes to distrust the Bible, the orders of the Church, tradition, etc., etc.; from then on he is lost.[9]

In France the upper classes felt that "action is more persuasive than words . . . to discuss the laws in public is to rob them of that respect which is the secret of their power." [10]

In Austria the same view prevailed. Robert Owen, for example, relates his conversation with M. Gentz, secretary of the Congress of Sovereigns, in 1817.

> I stated that now, through the progress of science, the means amply existed in all countries, or might easily be made to exist on the principle of union for the foundation of society, instead of its present foundation of disunion, to saturate society at all times with wealth, sufficient to amply supply the wants of all through life. What was my surprise to hear the reply of the learned secretary! "Yes," he said, and apparently speaking for the governments, "we know that very well; but we do not want the mass to become wealthy and independent of us. How could we govern them if they were?" [11]

[8] Artz, F. B., *Reaction and Revolution* (New York, 1934), p. 2, note 1—from F. Lemni, *Carlo Felice* (Turin, 1931), 165 note.

[9] Beyle, H. (Stendhal), *La Chartreuse de Parme* (Paris, 1853), pp. 121-22.

[10] Custine, A. L., marquis de, *Russia* (New York, 1854), p. 16.

[11] Owen, R., *The Life of Robert Owen* (London, 1857), p. 183.

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In Russia conditions were even worse. "'Why in the world should you be interested in our mujik?'" a French traveler was asked by a lady on the Lower Volga. "'He is a brute of whom you will never make a man.'" [12]

Again, "Sporanski . . . when Governor of the province of Penza, brought to justice, amongst others, a proprietor who had caused one of his serfs to be flogged to death, and a lady who had murdered a serf boy by pricking him with a penknife because he had neglected to take proper care of a tame rabbit committed to his charge." [13]

"'Very good,' the Grand Duke Mikhael said once of a regiment, after having kept it for one hour presenting arms,—'only, *they breathe!*'" [14]

It must also be readily conceded that under nominally mass rule systems, attention to the lot of great groups of population may leave much to be desired in factory, mine and farm. In the earlier forms of popular rule, the bulk of the population was excluded from the voting circle and slavery remained for the blacks. This was done, it might be maintained, not because the mass was in power but because they were not in fact effectively in authority; a relatively few interpreted their own private interest in terms of the relatively many. Nevertheless the system of democracy points steadily in the direction of this goal, even if it is not reached thus far. Lincoln said of the Declaration of Independence, it is an ideal "constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all colors everywhere." [15]

The fraternal basis of life has been weakened in recent years by such influences as race hatred and the doctrines of the racial

[12] Leroy-Beaulieu, A., *The Empire of the Tsars and the Russians* (New York and London, 1893), p. 408.

[13] Wallace, Sir Donald M., *Russia* (London, Paris, New York, approx. 1877), p. 472.

[14] Kropotkin, P., *Memoirs of a Revolutionist* (Boston and New York, 1899), p. 9.

[15] *Works*, I, 232.

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differentials, notably in Germany, and further by the tendency toward private regimentation and exploitation in great concentrations of economic power reaching over into the political field. In many areas sad ravages have been made on the doctrine of human comradeship. But on the other hand, sweeping progress has been made through the emancipation, in part, of womankind, through the closer human relationships in cities and in mass industries, through the organization of labor, through the democratizing of many spheres of life formerly held as the preserve of few. In the field of transportation, of dress, of art, of education, of recreation, of health, the status of the individual has been elevated materially and in many ways so imperceptibly that the advance of social democratic mores has not been perceived.

Democracy cannot yet say even approximately that to every human being there has been allotted some small but precious part in the reconstruction of the society of which he is a part, but ideally it is headed in that direction, however slow the advance may be. The French Revolutionary adoption of "citoyen" was a symbol of the larger mass movement toward the recognition of the essential dignity of mankind, and the meaning of human personality in our modern world. Of this larger movement the egalitarian and the libertarian ideas are parts, important parts, but not the whole unless they are broadly interpreted.[16]

Equalitarians and libertarians are essentially concerned with the free development of the human personality in its richest and most creative possibilities. The political equalitarians and the economic libertarians alike have before them the unfettering of human abilities and their full and free expression in social relations. Their external scheme of instruments is designed to bring about this emancipation, to create a world realizing the innate possibility.

The doctrine of liberty underneath its procedural trapping is essentially that of opportunity for free development of personal desires for expression. Who says liberty says life—

[16] *Cf.* Bouglé, *Les idées égalitaires;* Dewey, *Individualism Old and New;* and Tawney, *op. cit.*

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richer and more abundant life. Liberty, Bryce has said, is an end in itself, but it is more than that. It is also a means of arriving at other ends, a method of expression of personality—a mode of obtaining recognition and possibly rising in the hierarchy of values in the society.

When the procedures of alleged liberty stand in the way of the throbbing interests of life, it is time to reconsider their form and application, to see whether what was intended as a release has become a restriction, whether Shylock is demanding his pound of flesh according to the law, but contrary to the basic purposes of the law. When the rich or the powerful publicly invoke liberty as a means of private exploitation of the poor and the weak, it is time to examine the nature of the forms and procedures and the spirit in which they are applied before we accept these invocations at their full value. The variation of social forces must be accompanied by a co-variation of the libertarian forms that express them; otherwise liberty becomes only a convenient word twisted to the purposes of tyranny.

It is not necessary to the doctrine of the dignity of mankind that every man should be equal to every other man in everything, or that every man should be able to do everything he may desire at any time. These are no part of the assumptions of democracy, and only stand in the way of the achievement of the larger program. It is the larger and ampler regard for the position of the human personality in the general scheme of values which lies at the root of the assumptions of democracy. This persistent factor in all of its program includes insistence upon placing the substance of human personality above the forms of its protection—often a puzzling phenomenon to those who seem to have covered the personality legally but find it cruelly exposed in other and unexpected ways.

Again the democratic movement is directed against the unwarranted or exaggerated interpretation of the human differentials in various forms. The conclusions drawn from the fact of human inequality that there should be set up a caste system or a slave system, or serfdom, or special legal privilege, or private regimentation in some other form, even in the

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name of economic liberty—these are contrary to the general doctrine here set forth.

That there may be an inequality in the distribution of values does not mean that this must be unlimited in its spread. Nor does it contemplate that the beneficiaries shall be the unrestrained judges of their own importance in the value system of the community. That personalities will develop only when and as they are allowed unlimited and self-determined rewards is an inadequate view of the incentives to human activity.

The doctrine of democracy is not one of leveling down primarily, but of building up to a minimum level, and of cultivating the possibilities in all ways of life. It discards traditional status and emphasizes creative capacity or dynamic ability. Far from crushing out talent, democracy may place the highest premium upon it, and strike at all artificial limitations. Most differentials are not inherited, but must be established and earned pragmatically in the given society in a given cycle of its development and in the given direction of its social objectives. In the political world selection should not be determined merely by the fact of inheritance, but by the test of demonstrated capacity. In general the dead hand is not presumed to control the living present.

It is always possible, as critics have repeatedly pointed out, that the differentials may be too jealously or suspiciously regarded in a democracy and that inappropriate recognition may be the result, with outcomes unfortunate for the functioning of the society. This must be set over against the possibility of favoritism on the part of those who administer the doctrine of aristocracy and failure in the impartiality of the distributors. The meaning of this social directive is clear, however, and its implications evident, broadly speaking.

It is an essential in any mass program that differentials in ability be recognized and that they be given an appropriate place in the grand plan for the intervaluation of human services. The emphasis of democracy is not on the flat egalitarianism of all men, but on the equality within certain fields, such as equality before the law, equality in suffrage, equality in opportunity, in dignity, in basic minimum ways of life.

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It has further asserted that many types of inequality are not the inexorable outcome of human nature but of brutal conditions under which human nature has been trained and developed. It was Rousseau who said, "If then, there are slaves by nature, it is because there have been slaves contrary to nature." [17]

Said Markham in the *Man with the Hoe:*

> How will it be with kingdoms and with kings,
> With those who shaped him to the thing he is—
> When this dumb Terror shall reply to God—
> After the silence of centuries?

The effort of the mass movement has been in the direction of seeing that the differentials were in fact the outcome of genuine variations and not of a privilege-created environment,[18] producing and recognizing artificial inequality.

It is easy to say that all men are not created equal. It is easy to find widely disparate IQ's, and far-ranging differences in skill and capacity in almost every walk of life. But on the other hand it is easy to see that many bruised and broken lives might have been saved if society had taken its obligation to mankind more seriously. Any physician is furnished with proof of this, and, indeed, he need not be a physician or a psychiatrist to observe that man's inhumanity to man has blunted many lives.[19] Indeed this sensitiveness to the lot of others has been one of the distinctive characteristics of the modern democratic movement as contrasted with the underlying philosophy of the founders and exponents of the caste system which has held sway over so many millions for so long a time; and as contrasted with the philosophy of slavery which likewise condemned men to permanent subjection on the ground that they were incapable of improvement, and must consequently be held as the wards of the more competent.

If the possibilities of modern science and modern organization were utilized in practice there would be an end of any

[17] Rousseau, Jean Jacques, *Social Contract*, p. 6, Rose Harrington trans. (New York and London, 1898).

[18] Bouglé, *La démocratie devant la science.*

[19] *Cf.* DeKruif, Paul, *Why Keep Them Alive?* (New York, 1936).

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section of population unformed or malformed in body and mind and soul. There is no excuse for the existence of a "lumpen proletariat" in our day, except that of our inattention or of greed—or of cynical acceptance of a condition now outgrown. This might well be blazed in letters of fire wherever modern civilization holds sway, and made the first step in the formulation of any modern social policy.[20]

When this is once accomplished, there will still remain differentials in human capacity in many ranges of activity. Some of these differences will be found in the field of political competence; some in science and invention; some in art; some in the field of production and organization of commodities and services. These differences in ability will be differently rewarded in accordance with special needs in differing phases of development.[21] There are many worlds in which many types of prestige may be developed so that the leader in one world is a follower in another. There may be, and indeed are, many true "orders of nobility" in the many ways of life in which differentials are found. These differentials do not or need not stand in the way of a system of democracy except as men acquire positions of undue privilege and begin to obstruct the opportunity of others.

No dead-level system has ever been seriously advocated by any responsible person, since the range and variety of human attainments are such as to make this psychologically impossible even if desired. Even the most successful system of conservation of the old could not prevent mutations in the direction of new variations of infinite variety. Even the most despotic and determined power could not reverse the trend toward variation in all phases of human life, under any system of conditioning yet devised.

It is not the purpose of a system of democracy to iron out all human differentials, but on the contrary it is a part of the

[20] Conklin, Edwin Grant, *The Direction of Human Evolution* (New York, 1921); Curtis, Winterton C., *Science and Human Affairs* (New York, 1922).

[21] A fuller discussion of the identification and validation of the differentials has been set forth in my article on "The Assumptions of Aristocracy", *The American Journal of Sociology*, May 1938, pp. 857-877.

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program to cultivate and enrich human capacities and variations at many points where they are kept back by neglect. It may be found necessary from time to time to review and revise those differentials that bear directly on the general purpose of the system, as is seen in minimum wage legislation, or progressive income taxes, price or profit regulation, or other differentials touching closely the inner workings of the commonwealth.

While the fluid forms of prestige such as that represented by money income may be more easily regulated by the state, the special types are far less readily reached. The governor cannot well regulate the prestige of the musician, the poet or the artist, or fix the range of esteem for the scientist and the inventor. He may say what salary the great general may have, but cannot vary much the esteem in which he stands in the community. The limits here are soon reached, and prestige may retreat into inner domains into which the most penetrating authority cannot find its way.

The charge that popular rule involves the wholesale crushing out of human differentials, or indifference to variations in ability, is not sustained by observation of what has happened in such systems, and will be found in general to be the accusation of some special privilege group which fears the attention of the public to its large rewards. It is of course true that the mass in power may be indifferent to or oppressive of special forms of talent, but this has also been true of all competing types of rule, aristocratic and autocratic. Only too often the patronage of art and culture by systems of aristocracy has refused to look at ability and suffered it to languish and die. On the other hand the encouragement of education and science and invention has never been more conspicuous than in the modern democratic states. The basis of popular rule is indeed a high level of education, which of itself inevitably emphasizes variations and differentials in those who pass through its channels.

The persecutions of the Jews with their enormous treasures of intelligence have been the work of the aristocratic systems of Spain in its tragic era of persecution and of the Nazis in

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their glorification of race superiority and individual differences.

That the mass may misjudge a system of differentials or meddle with it is, of course, possible and has happened, but it is not inevitable and characteristic of the plan as a whole.

II

It is assumed that there is a constant trend in human affairs toward the perfectibility of mankind. This was plainly stated at the time of the French Revolution and has been reasserted ever since that time, and with increasing plausibility. Inventions and discoveries which Condorcet could not have foreseen or even imagined have created a new world of abundance, alike in the fertility of soil, in the productivity of machines, in facility of organization and management.[22] The era of plenty has taken the place of the era of scarcity in many parts of the world, although not in all; but human thinking lingers in the earlier phase of our tragic experience stretching over the centuries of want.

The early philosophies of democracy must either have ignored the condition of great masses of humans or have looked forward, idealistically perhaps, to the progressive improvement of the human type. One hundred years ago there might have been room for argument upon this question, and critics of democracy might in the light of experience have challenged the competence of the mass of the people to understand enough of government or public policy to undertake the responsibility for any kind of important decision. There were indeed plenty of such comments vividly made then and later, and now.[23]

But the unparalleled advance of technology in our time has revolutionized the conditions of production and made these older contentions more difficult to sustain. Not only have enormous advances been made, but the soberest view of the

[22] *Technological Trends and Social Policy*, National Resources Committee (U. S. Govt. Printing Office, Washington, 1937).

[23] Maine, Henry J. S., *Popular Government* (New York, 1886); Faguet, Émile, *The Cult of Incompetence*, tr. Beatrice Barstow (New York, 1914); Ortega y Gasset, José, *The Revolt of the Masses* (London, 1932).

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future indicates a continuance of the stream of invention and discovery—of a continually broadening range of human controls over the forces of physical nature and over man himself.[24] When the forces of nature are still more thoroughly mastered, when the possibilities of eugenics and education are better understood, when social invention shall have done more perfect work, then the full possibilities of human perfectibility will be more nearly seen and better understood. In the light of such a progressive unfolding of human possibilities democracy was developed, and still continues to set as one of its cardinal principles the assumption of the indefinite extension of this development.

What is the ultimate goal? The goal is the leveling up of the standards of human living to a point far beyond any thus far attained even by the aristocrats themselves. Since the days of the French Revolution the doctrine of the continuing perfectibility of mankind has glimmered in the minds of the leaders of the mass movement, and has animated them to continue the struggle in this direction. Thus far the human lag has been very great.

In one sense poverty may be considered a relative term in any distribution of income, but in another there are sordid desolations of humanity which may be eliminated forever from the experience of mankind. That there will always be differentials in capacity is not a valid pretext for ending the most obvious handicaps to the unfolding of human personality and for low-level forms of education, housing, surroundings that are a disgrace to the human race in our day.[25]

In a sense it may be said that democracy, more than any other system, is concerned with abundant production of commodities and services—as much concerned with production as with distribution. If labor-saving machines and other devices have been opposed it was because they seemed obstacles rather

[24] *Recent Social Trends in the U. S.*, Report of the President's Research Committee on Social Trends (New York and London, 1933), Part III, Committee's Findings and chapters ii and iii.

[25] A discussion of minimum standards of living is included in a forthcoming study of which this article is a part.

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than aids to the diffusion of the gains of civilization. But is not the doctrine of productivity common to all other competing systems of social organization — of aristocracy as well as of democracy? That it is desirable to increase the productive powers of mankind in any given nation will, of course, be instantly conceded. But this may be brought about by the ordering of society in such a manner as to accentuate the distinctions in human differentials, in such a fashion as to make masses of persons almost equivalent to beasts of burden. Thus higher productivity may become the instrument of elevating a relatively few while the relatively many are held in forms of inferiority. At such a point larger production is not accompanied by a recognition of the contribution of the mass.

III

It is assumed that the gains of commonwealths are essentially mass gains and should be diffused through the mass by whom they were created as rapidly and as fairly as possible. In a political unit such as a modern nation this becomes clear in time of great national stress. Men are called upon to give up their ordinary occupations, to risk their lives, in defense of what is clearly recognized as a common cause. In these moments the meaning of the commonwealth stands out clearly, without any successful rival. The same is true of moments of tension outside of war, as in a great famine, plague, flood or other disaster.

This doctrine dates back indeed to the classical and medieval periods. The meaning of the community was then strongly emphasized and the common good set forth clearly as the paramount consideration in group affairs. The implications of this were not worked out in practice, but the theoretical statement of the principle was clear and decisive.

This doctrine does not assume that each individual contributes the same as every other, or that all should share on an identical basis; but that the production of civilization is a community enterprise in which all participate. If there are those who demand the public protection, heritage and advantages of the nation and are not willing to subordinate their private

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claims to it, they are in an awkward position; for they seek all the profits and none of the losses in a common enterprise. There are those who insist that the gains of civilization are essentially the creation of a few men who are the great benefactors of the nation or society in which they live, and that though others may be contributors they are so only in a minor and subordinate way. From the mass point of view, on the contrary, the land, minerals, water resources, human resources of the nation are "of the people" as a whole in first instance, and in priority of claims.

Individuals and groups are not presumed to assert the priority of their claims over the community as a whole, in case of conflict, just as no individual in time of war may demand exemption of his special interest. In no other phase of the nation's life may he assert his own interest as against the common interest with the expectation of having it recognized as a prior claim. The nation has not only the right of eminent domain over land but also the right to draft persons for war, and the right to make rules for what it conceives to be the common good. This may, it is true, be assumed likewise by anti-democratic systems, but with a different principle from that of guidance by the common will.

The assumption of democracy is, then, that the total gains of commonwealths are mass gains produced by common effort, and that these gains are to be enjoyed by the mass which made them possible. This is not to deny that either contributions or rewards may be unequal, but to assert that broadly speaking national gains are nationally produced, the outcome of a joint effort in war and peace, pointed toward the common good.

This stands out against the other assumption that the gains of civilization are essentially individual or class or group gains and should be apportioned accordingly with a set of differentials developed in this spirit.

IV

The next assumption is the desirability of popular control in the last analysis over basic questions of policy and direction, with recognized procedures for the formulation of such policies and their execution.

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Under all systems there is some attention given to popular feeling, popular morale, popular protest. This may be roughly measured by the applause for the king or his aides, or by the breadth and strength of popular discontent and murmurs, or by other evidence known to the skilled observer of the "temper" of the mass. The king himself may even visit his people *incognito* to find out what they are saying or how they are feeling. The assumption of solidarity goes far beyond this, however, to the conclusion that basic questions should be determined by the mass, or as many of them as they care to consider, and in such form of consultation and assent as they may set up.

The forms, times and modes of consultation are of subordinate importance in the face of the major problem of mass consent in the large. These forms and modes are not unimportant either in the field of ideas or in that of symbolism, but they yield in significance to the broader principle involved, namely, the assertion of popular control in ultimate analysis. As to the type forms in which assent is obtained there may be wide difference of opinion and practice, but here again the mass decision is final and controlling.

In passing over a detailed discussion of the numerous and competing forms of organization of popular government I do not intend to minimize their importance, but only to lay the greater emphasis on the larger principle involved, and its contrast with the assumption of aristocracy.

It is also true that the detail may become extremely important if it involves the actual distortion of the general principle. The special mechanism may indeed be little more than a cunning method of defeating the very principle involved, as in the case of a controlled plebiscite or a deceptive form of representation, in which twisted appearance takes the place of reality.

It may be asked, who shall decide what are "basic questions", and who shall determine whether the ways and means of expressing the mass will are appropriate and effective? We cannot go farther back than the "general understandings" of the community, always the judge of the form and functioning of the legal order in which the system is set. Locke's doctrine that the people are always sovereign, although "not

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under any form of government", has puzzled many political mechanics, but it contains an element of truth which cannot be disregarded. Participation in the making of decisions upon basic questions is one of the protections of the amateur against the professional, of the mass against the specialized class who take on the function of administration for them, and sometimes forget who is master. The responsibility of the ruler to the ruled has been one of the historic battle grounds of popular government, and its instrumentation appears in many forms in many lands and times. Mass judgment as a means of determining community policy is vigorously resisted both in theory and in practice by the apostles of aristocracy.

Evidently no political association would be concerned with the fixation of all human value systems, for many of these are so intimate in their nature as to be almost inaccessible except in times of extraordinary tension, and others are so numerous and varied as to be incapable of successful administration by any one kind of grouping.[26] Some human values will be sharply fixed by the government; others more remotely regulated or affected; others will be supervised in a general way; others regarded only as they seem to interfere with the course of the nation, threatening it in some important particular.[27]

If a given interest seems to imperil the community by overweight in the economic field, or in the ecclesiastical field, or become defiant of the association's basic principle in any field, the group may care to take appropriate action to restore the balance of social values.[28]

The wisdom of the government will under such circumstances be measured by the balance kept between its community needs and the degree and type of regulation exercised. Every overregulation will bring its own antidote in the form of resistance, sabotage, low morale, and possibly overthrow of the powers that be, while failure to act may jeopardize the position of the state and destroy its unity of purpose and vigor.

[26] See Huxley, Aldous L., *This Brave New World* (Garden City, 1932), for a satirical treatment of the complete regulation of human life.

[27] Dewey, *The Public and Its Problems*, ch. i.

[28] Merriam, Charles E., *Role of Politics in Social Change*, ch. v (New York, 1936).

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In times of stress and storm this function of the state is readily recognized, as in war and disaster, but it is equally important in other periods of the group's development, when the implications of such differentials are not as apparent. In an absolutistic state such powers may be exercised ruthlessly, without general consultation and without any real participation of the community in the program. In a system of democracy such powers may likewise be used ruthlessly, but not without opportunity for general counsel and participation, or ultimate review. Indeed even the preliminary discussion of the possibility of regulation will have a beneficent effect, whether in clearing the mind of the beneficiary or of the public itself.

In an aristocratic state the same principle will be followed, but with this difference, that the policy of intervaluation will be determined by the few frankly rather than by the many. The few will be the judges of whether their value system is advantageous to the whole community and to themselves. If it is difficult for the mass to deal fairly with the few, it must also be admitted that it is even more difficult for the few to deal fairly with the many.

V

The next assumption is that of confidence in the possibility of conscious social change, accomplished by consent rather than by violence. An aspect of democracy is confidence in the efficacy of government as a conscious and deliberate social organizer. The formation of a political constitution was ridiculed by savants of the nineteenth century, even, as wholly impossible. Constitutions grow, it was positively asserted, and cannot be made by man. At one time the anarchistic doctrine tended to prevail, and it was widely believed that the ideal condition would be that in which there would be no organized political order whatever. This still remains the anarchism of Proudhon and of Tolstoi, and a conspicuous point in the creed of the soviets, who foresee the end of all governmental organization, remote as it may appear at the moment.

In various periods also the government was identified with tyranny and efforts were made to provide restrictions against

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government on the theory that whatever it did would be bad; and that the less done the better. In more recent times, however, it has been realized that government may be the friend of the community as well as its foe; that popular government is not to be confused with personal or aristocratic government; that a weak government face to face with social situations in which action is urgent may itself be a danger to the stability and progress of the nation. Where governments have not acted vigorously and progressively they have exposed themselves to danger of overthrow, as in Italy and Germany. In these instances a stronger type of political action might have averted violence and revolution. The distrust of government, which a century or so ago was characteristic of the many who feared the encroachments of the few, is now more characteristic of the few who fear the encroachments of the many upon their special set of values.

The regard for mechanisms of government designed to protect individuals in their civil rights and the community against arbitrary action by despots still survives in undiminished vigor in democracies. But the type of rule which produces impotence in dealing with broad questions of social policy has been discarded in all doctrines of democracy looking forward to the instrumentation of the avowed goals of popular government. The "boycott" of government is now advocated only by those who prefer weakness as a guarantee against successful dealing with powerful special privilege.[29] Unless the privileged can count upon the control of the government, they often prefer to keep its powers limited and its instruments weak.

Furthermore conscious social change is to be brought about by the process of peaceful consent rather than by the methods of violence. Freedom of discussion, freedom of association, in a relatively peaceful atmosphere, are the favoring preconditions to make popular consent possible. Obviously it is impossible to obtain a mass decision if those who decide are intimidated, if they are not in a position to consider the questions of policy or personnel at stake, if violence and duress, and the distortion of facts by the agencies of communication

[29] See my *Role of Politics in Social Change*.

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take the place of deliberation and free choice. It was Bentham who once said that the liberty of a people is measured in ultimate analysis by the facility with which the acts of government may be criticized, discussed and reversed.[30] A plebiscite following a period in which freedom of association and of discussion is repressed is no plebiscite at all, but a cynical imposition of authority. The assertion that the people have voted and approved a policy or a person under such circumstances is of no significance except that those who have used force have mislabeled it consent. No intelligent person need be deceived by such brazen maneuvers.

These assumptions constitute the theoretical basis of democracy. The program of democracy is directed toward their validation through specific mechanisms, and in particular programs. But the underlying principles are standards by which special procedures and the policies of the moment are to be evaluated. These assumptions taken together make up the working philosophy of democracy, as it is evolving historically.

From time to time some of these principles have been and are claimed by competing types of political association. Paternalism may desire the conservation of human powers and resources, or regard paternally the dignity of mankind, theoretically. Aristocracy, old or new, may regard itself as the trustee of the community and endeavor to administer the gains of civilization according to its lights. But there is no guarantee that these concessions will be made even in theory, or that more than theoretical lip service will be paid to them. The promise of their fulfilment without the determination of public policy by the community and without the consent of the governed is a fading hope.

[30] Bentham, Jeremy, *A Fragment on Government* (Oxford, 1891), pp. 216-217.

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THE SOCIAL HONOR COURTS OF NAZI GERMANY *

THE position of labor and the structure of institutions controlling labor relations in Nazi Germany have frequently been described;[1] little, however, has been written on the Social Honor Courts. These courts were established by the Law for the Regulation of Labor[2] to deal with violations of "social honor" within the business enterprise, and they derive their meaning from the view of labor relations expressed in that Act. A brief account of the institutions established by the Labor Act, and the doctrine upon which it is based, must precede a description of the functioning of the Social Honor Courts.

I

Under the Weimar Republic the basis of labor relations was realized in the legal recognition of labor as a separate interest group. Individual labor contracts rested on collective agreements (*Tarifverträge*) between individual employers or employers' federations on the one hand and labor unions on the other, regulating important conditions of work such as hours, wages and insurance. The *Tarifvertrag* was not a labor contract; it was a collective agreement between interest groups

* The writer acknowledges, with profound appreciation, the counsel, aid and encouragement of Dr. Michael T. Florinsky of Columbia University in the preparation of this article. Responsibility for analysis and interpretation rests, of course, on the writer alone.

[1] See Florinsky, Michael T., *Fascism and National Socialism* (New York, 1936), chap. v; Ermarth, Fritz, *The New Germany* (Washington, 1936), pp. 131-149; Brady, Robert A., *The Spirit and Structure of German Fascism* (New York, 1937), chap. iv, of which pages 142-146 give an outline of the Social Honor Courts.

[2] *Gesetz zur Ordnung der nationalen Arbeit*, Jan. 20, 1934, *Reichsgesetzblatt* (*RGBl.*), 1934, I, 45. Hereafter referred to as the Labor Act, Sections 35-55 of which deal with social honor.

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laying down norms for the individual labor contract.[3] Arbitration boards under state guidance assisted in drawing up these normative agreements. Labor's voice in industry was expressed through the shop council, elected by secret ballot of employees to represent them in factory matters and to supervise the enforcement of collective agreements.[4] Labor Courts were established to deal with four classes of disputes: (1) cases involving the parties to a collective agreement or concerned with the regulations therein contained; (2) differences between employers and employees arising out of the individual labor contract; (3) differences arising between employees out of the circumstances of their work; and (4) conflicts resulting from the functioning of the shop councils.[5]

Under the new dispensation contractual relations are confined to the individual labor contract. *Tarifvertrag* has been replaced by the *Tarifordnung* (labor or wage regulation) of the Trustee of Labor providing norms for the factory regulation (*Betriebsordnung*) issued by the employer and for the individual labor contract. The representative shop council has been replaced by the Confidential Council which is an organ not of the workers, but of the community of the business enterprise;[6] it "has the duty of intensifying mutual trust within the *Betriebsgemeinschaft*."[7] Consequently, the jurisdiction of the Labor Courts, as defined in the new Labor Courts Act of April 10, 1934,[8] has been removed from the first and last of the categories mentioned above, and is now limited to disputes arising out of the individual labor contract and those between employees.

[3] See Oertmann, Paul, *Deutsches Arbeitsvertragsrecht* (Berlin, 1923), p. 60.

[4] Regulated by the *Betriebsraetegesetz* of Feb. 4, 1920, *RGBl.*, 1920, I, 47.

[5] *Arbeitsgerichtsgesetz* of Dec. 23, 1926, *RGBl.*, 1926, I, 507.

[6] Muenz, Ludwig, *Das Gesetz zur Ordnung der nationalen Arbeit* (Berlin, 1934), p. 19, n. 4.

[7] Labor Act, Sec. 6. *Betriebsgemeinschaft* signifies the community of all those engaged in a common business enterprise.

[8] *Arbeitsgerichtsgesetz, RGBl.*, 1934, I, 319. An extensive explanation of this law is contained in Dersch and Volkmar, *Arbeitsgerichtsgesetz: 10 April, 1934* (Berlin, 1934, 5th ed.).

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The abolition of collective bargaining and the destruction of labor unions and shop councils thus diminished to a great extent the practical importance of the Labor Courts. But a new judicial agency, the Social Honor Court, to deal with the new form of labor relations written by Nazi ideology into the Labor Act, was created. The Labor Act described the relationship between employer and worker in terms of a personal bond and denied that they were held together merely by the economic tie. There was a conceptual return to pre-industrial days and a search for forms in the old German law in which apprentices are regarded as "belonging" to the "household community". "In the business enterprise," the Labor Act begins, "the entrepreneur as leader of the enterprise, employees and workers as the following, labor together for the promotion of business purposes and the common service of people and state." In accordance with the leadership principle, the employer "decides as against the following in all business matters," and has the duty of providing for them (*Fuersorgepflicht*); the following owe him loyalty and obedience (*Treupflicht*). In every business enterprise employing at least twenty persons a Confidential Council is formed, whose members are appointed by the employer with the advice and consent of the head of the *NSBO* (Nazi Business Cell) unit in his plant, which must be consulted in all matters relating to working conditions, labor efficiency, and the issuance of factory regulations (*Betriebsordnungen*).[9] German fascism views each employer as leader of the enterprise, having a commanding voice in all matters relating to his plant. But the individual *Betriebsgemeinschaft* exists not only to promote its own ends; its aims must be subordinated to the "common interests of people and state." The final decision, it is maintained, rests not with the leader of the individual enterprise but with the leaders of the state and the National Socialist party. The Trustee of Labor, a government official, assumes the task of providing an employer, should he fail to do so himself, with a Confidential Council acceptable to the state. Should the employer prove to be "unqualified" to act as

[9] Secs. 5, 6 and 9 of the Labor Act.

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leader of his business, he will be deprived of this right by the Social Honor Courts and another "leader" appointed in his place.[10]

According to the Labor Act, a Trustee of Labor (*Treuhänder der Arbeit*) was to be appointed by the Minister of Labor to deal with labor relations in each of fourteen economic areas into which the Reich was divided. The general duty of the Trustee is to maintain industrial peace and to replace the organizations of employers and trade unions in formulating norms for the labor contract.[11] He supervises the work of Confidential Councils and decides disputes arising within the Confidential Council, a majority of whose members may protest to him against an employer in regard to provisions of factory regulations. In accordance with ministerial orders he issues wage regulations for his district.

The social honor concept has been advanced by the Nazis as the antithesis to the Marxian conception of the inevitability of class struggle in a capitalist economy. The rights and duties based on the individual labor contract give rise to legal claims for the satisfaction of the private interests of parties to the contract. But, the social duties imposed by the *Betriebsgemeinschaft* override these interests; they obligate the individual to attitudes and behavior consistent with social honor. These obligations constitute a sphere of duties (*Pflichtenkreis*) entailing, above all, mutual respect, loyalty of the following to the leader, and concern by the employer for the welfare of his employees. Offenses against this sphere of duties is not a violation of private, but of social right. Some interpretations have observed that a violation of social duty is in the first instance an offense against *his own* social honor by the

[10] It is important to note that "leader of the enterprise" is called a "socio-political" concept having nothing to do with property rights. When the Social Honor Court deprives an employer of the right to act as leader of his business, there is no change in ownership but a denial of the privilege to exercise the social functions of management, to preside over meetings of the Confidential Council, and to deal directly with his following. Muenz, *op. cit.*, p. 18, n. 2.

[11] Meissner and Kaisenberg, *Staats- und Verwaltungsrecht im Dritten Reich* (Berlin, 1934), p. 214.

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offender.[12] In general, however, the Courts have regarded it as affecting the social honor of (a) the community and (b) the victim.

An employer may commit an offense against social honor by abusing his position of authority in the enterprise to exploit labor, through insult or physical mistreatment of employees, or by failure to observe the orders of the Trustee of Labor. Employees do so through disobedience, incitation to class struggle (e. g., the strike), or disturbing the stability and order of the *Betriebsgemeinschaft.* Members of the Confidential Council must help to maintain industrial peace by setting an example of good behavior and by refraining from interference in the management of business. For violations of social honor the Labor Act provides penalties ranging from a "warning" to removal of a worker from his position, or, in the case of an employer, deprivation of the right to act as leader of his business.[13]

[12] This view is expressed in a Communication by the German Labor Front, Nov. 22, 1937, addressed to Dr. Michael T. Florinsky in answer to an inquiry by the writer. (Hereafter referred to as Communication of D.A.F.) A full exposition of the concept of social honor from the legalistic viewpoint is given in the standard commentary, Mansfeld and Pohl, *Die Ordnung der nationalen Arbeit* (Berlin, 1934, 2nd ed.). See esp. commentary on Secs. 35, 36, 38, 40 and 43 of the Labor Act.

[13] The material provisions of the Labor Act on social honor follow:

Sec. 35. Every member of a *Betriebsgemeinschaft* bears the responsibility for the conscientious fulfilment of the duties imposed upon him by his position in the enterprise. . . . In particular . . . he should devote himself to the service of the enterprise and subordinate himself to the common welfare.

Sec. 36. Serious violations of the social duties of the *Betriebsgemeinschaft* will be regarded by the Honor Courts as offenses against social honor. Such offenses shall be deemed to have been committed when

1. The entrepreneur, as leader of the enterprise, or anyone in a position of supervision, abuses his authority in the enterprise by maliciously exploiting the labor power of members of the following or wounding their social honor;

2. Members of the following endanger the industrial peace in the enterprise through malicious incitation of the following, in particular when, as members of the Confidential Council, they pretend to inadmissible interference with the management of the enterprise, or maliciously and continually disturb the community spirit (*Gemeinschaftsgeist*) within the *Betriebsgemeinschaft.*

3. Members of the *Betriebsgemeinschaft* repeatedly address unfounded com-

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Social Honor Courts, of which there is one for each trustee district, consist of a presiding judge appointed by the Reichsminister of Justice and two lay assessors, one of whom must be a "leader of an enterprise" and the other a member of a Confidential Council. The presiding judge chooses his assessors from lists submitted by the Labor Front. The National Honor Court, consisting of five judges, two of whom must be lawyers, hears cases on appeal from the Honor Courts. Procedure is informal and elastic, hearsay evidence being welcomed. Cases arise only on motion of the Trustee and may be decided by the presiding judge in a preliminary hearing; at this preliminary hearing the case may be dismissed or a sentence of "warning", "reprimand", or fine up to 100 Reichsmark imposed. Against this decision Trustee or defendant may protest and move for trial before the Social Honor Court.[14]

Consistent comment has pointed out, and the Honor Courts have reiterated, that social honor law differs from criminal law principally in the "educative" functions of the former; the Social Honor Courts in measuring sentence have inquired as to the possibility of educating the accused to an understanding of his social duties and have imposed the penalty which would presumably best serve this purpose.[15] It has further been suggested that the Honor Courts share this pedagogical

plaints or applications to the Trustee of Labor or act in obstinate opposition to his written orders.

* * * * *

Sec. 38. The following penalties shall be imposed by the Honor Courts (for violations of social honor):

1. Warning. 2. Reprimand (*Verweis*).

3. Monetary fine up to 10,000 Reichsmark.

4. Deprivation of the qualification to act as leader of the enterprise or as a member of the Confidential Council.

5. Dismissal from position held.

[14] The procedural provisions of the Labor Act are best explained in Mansfeld and Pohl, *op. cit.*, commentary on Secs. 41, 43, 45-52.

[15] On June 10, 1937, the National Honor Court reduced the sentence of an employer found guilty of a violation of social honor from permanent to temporary "deprivation of the right to act as leader of an enterprise," on the ground that he gave promise of improvement in social behavior. 30 *Arbeitsrechts-Sammlung*, I, 179.

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function with the Labor Front and the Trustees of Labor. All three participate in the task of persuading the German people to coöperate in truly communal spirit in both economic and political life.[16] The Labor Front appeals to them to perform their appointed duties in the economic life of the nation; the Trustee may issue written orders which have legal force. As a last and most effective instrument the Trustee may invoke Social Honor Court proceedings.

II

The Labor Act came into force on May 1, 1934. Since then the Honor Courts have handled more than two hundred cases annually. From the first there was some confusion and difference of opinion as to what the social honor concept meant and how it was to be applied. The overwhelming majority of cases to come before the Courts were directed against employers or managers under Section 36, No. 1.[17] Three types of cases appeared: (1) charges that employers were paying wages and maintaining working conditions below standards prescribed in wage regulations; (2) insult or physical mistreatment of members of the following by the leader of the enterprise or persons in a managerial position; (3) disobedience of the written orders of the Trustee of Labor. Difficulties immediately arose. Was every instance of infringement of wage regulations also an offense against social honor? Evidently not, for the mere non-payment of wages or failure to maintain suitable working conditions was primarily a labor dispute under the jurisdiction of the Labor Courts or a matter for the criminal courts. It was only intentional or "malicious" (*boeswillig*) exploitation of labor of which Social Honor Courts could take cognizance. But, what was *boeswillig?* Again, was every insult or assault a violation of the social honor of employees? What difference, then, between a violation of social honor and a criminal act? The Courts early evolved the theory that in cases of physical mis-

[16] See Mansfeld's note to the Opinion of the Hamburg Social Honor Court, Nov. 12, 1934, 22 *Arb.-Samm.*, II, 119, 122.

[17] *Supra*, note 13.

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treatment social honor was involved only where there had been an unsocial attitude or conviction (*asoziale Gesinnung*) on the part of the offender.

Similarly, the question arose whether every refusal to obey the written orders of a Trustee implied also a violation of social honor. In one instance a manufacturer of musical instruments was accused of paying wages below the standard set in the wage regulation and of repeatedly ignoring the written order of the Trustee to settle a matter of overdue wages and overtime. The lower Honor Court held that such action "would lead to class hatred", and imposed a fine of 800 Reichsmark.[18] On appeal, however, the National Honor Court reversed the decision on the ground that "obstinate opposition" to the written order of a Trustee is not necessarily a violation of social honor, unless it arises out of a "malicious attitude and on unsocial grounds." Such an attitude is present only where the order is clear in meaning and aimed at enforcing a legally determined wage regulation; where the regulation itself is in dispute the matter is one for the Labor Courts.[19]

No adequate and certainly no uniform definition of social honor was advanced. To one writer the whole institution of social honor was meant only to "compensate" (the workers?) for the freedom of action given to employers by the Labor Act.[20] Dr. Mansfeld, the leading commentator on this subject, viewed the new Honor Code as setting up disciplinary rules for the *Betriebsgemeinschaft*, but held that only those specific violations enumerated in Section 36 of the Labor Act were punishable offenses. Social honor, he told the Courts, should be interpreted restrictively.[21] In an opinion of September 30, 1935 the National Honor Court appeared to agree with this view.[22] On the other hand some believed that since

[18] 22 *Arb.-Samm.*, II, 139. [19] 24 *ibid.*, I, 43.

[20] Muenz, *op. cit.*, p. 18, n. 2.

[21] Mansfeld and Pohl, *op. cit.*, commentary on Sec. 35. Mansfeld's numerous notations to the case reports cited in *Arbeitsrechts-Sammlung* take the same position.

[22] The lower court found no specific violation of a wage regulation but im-

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the whole object of the institution of social honor was "educative" it would be wrong to treat it in the light of "traditional juristic concepts." The provisions of the Act itself, it has been claimed, merely lay down general principles of social honor; but the whole sphere of social duties is to be regarded as defining all the obligations of social honor, the provisions of the Act being indicative rather than exclusive.[23]

Most elementary of all, the Courts found, were the cases involving physical mistreatment or insult of an employee by an employer or person in a managerial position. One of the first of these, closely followed in subsequent opinions, was decided by the Social Honor Court for Middle Germany on October 8, 1934.[24] An employer whipped his apprentice for inefficiency and laziness, claiming that he did so to chastise and "educate the lad." Physical mistreatment of a young employee, the Court stated, constitutes a severe blow to his social honor and a violation of the Labor Act. Even when quarreling with his following, the Court advised, the leader must refrain from asserting an attitude of superiority which may produce in the member of the following a sense of inferiority. The Court implied that it was not the physical mistreatment as such but the consequent "feeling of inferiority", which it engendered, that constituted the offense against social honor.

The effect of such mistreatment on the attitude of the other employees was stressed by the Honor Court for East Prussia in a case involving the beating of a laborer by the farm manager. The Court held that the laborer, who had seriously bruised a horse while engaged in work on the fields, deserved a disciplinary reprimand, but that a beating was a malicious injury to the social honor not alone of the victim but of the

posed a "warning" for educative purposes. On appeal, the National Honor Court held that only violations specified in the Labor Act were punishable offenses. Said the Court: "The judge must interpret the Act in the manner contemplated at the time the Act was passed. . . . He should not set himself up as legislator by projecting his own view of desirable values." 25 *Arb.-Samm.*, I, 87.

[23] This interpretation is offered in Communication of D.A.F.

[24] 22 *Arb.-Samm.*, II, 51.

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Betriebsgemeinschaft and indeed of the whole folk-community. In judging suitable sentence the Court took account of the unrest among the other workers on the farm, which it attributed to the mismanagement of the defendant, and removed him from his post by depriving him of the right to act as leader of a business enterprise.[25] The National Honor Court in affirming the judgment remarked:

> The defendant has completely failed to comprehend the nature of the social duties upon which a *Betriebsgemeinschaft* is founded; this is evident not only in the physical mistreatment of particular workers but also in his general behavior toward the following. He has consistently treated those who work under him in an unbearably supercilious manner as persons of second class and not as . . . his comrades.[26]

This psychological observation was repeated by the Honor Court for North Mark (Hamburg) in an opinion delivered on November 12, 1934 denouncing a farm manager who had whipped a laborer found asleep on the job. The Court held that the defendant's domineering attitude and the use of his superior position brutally to mistreat a member of the following constituted a "serious violation of social duties", because it "produces in the following the sense of being treated as persons of second class. The National Socialist state", the Court continued, "means to uproot the last vestiges of that class hatred formerly stirred up by the Marxist parties."[27]

An interesting case, revealing some of the origins of the social honor concept, occurred in the mining district of Upper Silesia which was formerly strongly Leftist in political opinion. The Court took account of the effect of its decision upon the sentiment of the whole working class in the district, recognizing frankly that it had turned into a question of prestige.[28] A mine superintendent, the defendant in the case, kicked a miner who was engaged in moving certain coal trucks against his orders but upon the instructions of the mine foreman. The Court held that physical assault of an inferior is never war-

[25] *Ibid.*, p. 117.

[26] 23 *ibid.*, I, 69.

[27] 22 *ibid.*, I, 119, 121.

[28] Jan. 9, 1935, 22 *ibid.*, II, 196, 206.

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ranted, even when orders are disobeyed, and likened the relations involved to those in the army. It is inconceivable, said the Court, that a first lieutenant (i. e., the mine superintendent) in the German army would attempt to enforce his orders by a bodily attack upon a private (i. e., the mine worker). Although the attack was not premeditated the Court considered it a violation of social honor because the mine worker regarded the attack as directed "not against him personally, but against a manual laborer by a brain worker." In this instance, the Court pointed out, the worker, obeying the orders of the foreman, his immediate superior, was made the victim of a dispute between his superiors and must have had the impression that here, as always, "it was the defenseless manual laborer who received the wrong end of the stick."

In spite of lack of bad intent, the Court held that the act had been done "maliciously", defining the term *boeswillig* in the sense of insufficient zeal to carry out the program of the party which calls for peaceful relations in German production. This program will miscarry not only if there is active resistance to it, but even if the participants in this venture are non-coöperative and indifferent.

> The Social Honor Courts [it continues] are called upon to educate to this ideal not only those opposed to it, but even the indifferent; nay, above all the latter, because through their indifference they can work more harm than the others. It is therefore essential that everyone engaged in economic life shall endeavor, with the holiest zeal, to uproot the old order of thought grounded on an opposition of interests within the enterprise and . . . to strive for peaceful relations within the *Betriebsgemeinschaft*. . . . Whoever deviates from this way of thought acts maliciously. . . .[29]

On appeal, the National Honor Court reversed the judgment and acquitted the defendant on the ground that the social duty of the following to obey the orders of a superior justified disciplinary action and that no "unsocial attitude" had been evidenced in the behavior of the accused. Lack of "social

[29] *Ibid.*, p. 202.

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conviction" rather than mistreatment as such, it held, constituted the offense against social honor.[30] In line with this more moderate interpretation, commentators have stressed that "unsocial behavior" alone, not accompanied by "unsocial conviction", is not an offense against social honor.[31] The Courts have followed the view which happened to fit the particular case.

Not only physical mistreatment but the use of insulting or harsh expressions by an employer toward his following have given rise to proceedings before the Honor Courts.[32] Another numerous class of cases resulted from improper or immoral advances toward female employees.[33] The Courts have not always been consistent in the treatment of such cases, theoretically maintaining that libel and immoral behavior are primarily a concern for the criminal courts, unless there is evidence of an "unsocial attitude" or an attempt to misuse the authoritative position of a *Betriebsführer*. In practice, it has not been difficult to impute such motive.[34]

III

Enough has been said to indicate how elastically the Courts have defined the concept of social honor and how difficult has been its application in cases of mistreatment of employees. Even more confusion has attended the efforts of the Social Honor Courts in cases involving the infringement of provisions of labor regulations in respect of wage and hour standards

[30] 24 *Arb.-Samm.*, I, 197.

[31] See Mansfeld's criticism of the decision of a presiding judge holding that the mere chastisement of an errand boy for inefficiency was an offense against social honor. Jan. 15, 1935. 22 *Arb.-Samm.*, II, 188.

[32] See esp. *ibid.*, II, 52; also 25 *ibid.*, II, 56.

[33] E. g., 23 *Arb.-Samm.*, II, 53; 27 *ibid.*, I, 182 (National Honor Court decision of June 6, 1936); 30 *ibid.*, I, 175 (Nat. Honor Court decision of June 10, 1937); *ibid.*, I, 113, March 22, 1937. It has been held that aliens are also subject to the jurisdiction of the Honor Courts, and that a French citizen, operator of a cafe in Germany, who had made improper advances to a waitress was guilty of a violation of social honor and might be deprived of the right to act as leader of his enterprise. Judgment of Dec. 17, 1934, 23 *Arb.-Samm.*, II, 221.

[34] See e. g. Judgment of Dec. 18, 1934, 24 *Arb.-Samm.*, I, 38; also *ibid.*, 209.

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and the failure to provide suitable board and lodging for resident agricultural laborers. Disputes about wages, leisure time and working conditions are primarily matters for the Labor Courts, not the Honor Courts. There is no connection between the two jurisdictions, the former being administered by the Ministry of Justice, the latter by the Labor Ministry.[35] Violation of labor law is criminal rather than "dishonorable". Yet, the Labor Act and the whole ideology of Nazism place in the forefront of the social duties of the *Betriebsführer* the obligation "to provide for" his following (*Fuersorgepflicht*); a breach of this duty is a "malicious exploitation of labor power" and consequently a violation of social honor. The contradiction has proved embarrassing to the Honor Courts.

On the one hand may be cited the case of a rich farmer who was found guilty of a breach of "social duties" for failure to pay an adequate wage to a needy widow whom he employed for part-time agricultural work. The Honor Court for Lower Saxony held that the payment of an "unreasonable" wage signified "an unheard of exploitation of labor power", and that the defendant had paid an inadequate wage out of "self-seeking motives"; this constituted a "shameless exploitation of labor" in view of the fact that the defendant was comparatively wealthy and could well afford to pay a higher wage.[36] On the other hand is the opinion of the Honor Court for Middle Germany, holding that the payment of wages below the standard set in the *Tarifordnung* is not a matter for Honor Court adjudication unless it results from an "unsocial motive".[37] The same Court in an earlier case remarked that the tardy payment of wages due to financial difficulties rather than "maliciousness" is not a violation of social honor.[38]

It has frequently been held that "unsocial motive" may be imputed from repeated infringements of labor regulations. The owner of a bakery who had "repeatedly, for the sake of his own profit, paid wages below the standard and disregarded

[35] This element is emphasized in Communication of D.A.F.

[36] Judgment of May 28, 1936, 27 *Arb.-Samm.*, II, 100.

[37] Judgment of Feb. 12, 1935, 23 *ibid.*, II, 138.

[38] Judgment of Oct. 26, 1934, 22 *ibid.*, II, 97.

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the regulations concerning maximum hours" was found to be guilty of a "malicious exploitation of labor." Although he had already been prosecuted and fined in the criminal courts for violation of wage regulations, the Honor Court imposed a further fine of 1,000 Reichsmark for the same actions on the ground that they constituted also offenses against social honor.[39] In accord with this view was the opinion of the Honor Court for Brandenburg (Berlin) that criminal prosecution for violation of wage regulations and for failure to provide suitable housing for resident agricultural laborers did not exclude Social Honor Court proceedings with respect to the same acts. It was held that the principle *ne bis in idem* did not apply in this connection.[40] The same Court has gone so far as to maintain that the discharge of employees contrary to provisions of a labor contract is a "serious violation of the social honor not only of the individuals affected but of the whole following."[41]

In the agricultural districts most of the social honor cases have turned on the failure to provide proper board and lodging for farm laborers. There has been less need to strain the concept of social honor in the economic life of the farm where, for many purposes, the worker can properly be regarded as belonging to the household of the employer, whose "duty to provide" takes on some reality in this connection. The Hamburg Honor Court has in one case regarded the improper nourishment of farm labor as a sufficiently serious violation of social honor to warrant removal of the "leader of the enterprise" from his position.[42] Similar punishment has been meted out to employers charged with ignoring the warnings of the Trustee regarding improper housing of farm labor.[43]

[39] Judgment of Nov. 20, 1934, *ibid.*, p. 89.

[40] Judgment of Feb. 27, 1935, 23 *ibid.*, II, 248.

[41] Judgment of July 11, 1935, 25 *ibid.*, II, 60. Said the Court: "Die Achtung vor der Erhaltung der Arbeitsstelle ist daher ein wesentlicher wenn nicht gar wesentlicher Bestandteil der sozialen Ehrenordnung . . . ," but this has been criticized as dangerous doctrine.

[42] Judgment of Nov. 29, 1934, 22 *Arb.-Samm.*, II, 124.

[43] See decisions of Nov. 14, 1934, *ibid.*, 128; Jan. 8, 1935, *ibid.*, p. 215; also 23 *ibid.*, II, 68; the opinion of the Nat. Honor Court, July 30, 1926, 27 *ibid.*, I, 263.

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In several instances, however, the National Honor Court has reduced penalties imposed by the lower Honor Courts on the ground that failure to provide housing facilities is not necessarily a violation of social honor unless "unsocial motive" has been proved,[44] and a plea for the defense pointing to the bad financial condition of the farm will be favorably entertained by the Courts.[45]

Repeated violations of wage regulations usually do not come before the Honor Courts until other methods of persuasion through the agency of the Labor Front, employer organizations, and the good offices of the Trustee have been tried. Honor Court proceedings constitute the last resort, and they are usually invoked with an air of exasperation at the failure of the more moderate "educative" agencies. A case in point may be cited.[46] The owner of a transportation firm was charged with failure to pay his employees for overtime. Protests were lodged by the Confidential Council with the Labor Front, who sent an official accompanied by the district party leader to discuss the matter with the employer. At the same time an investigator representing the National Transportation Enterprises, an employers' organization, independently substantiated the charges. These measures proved unavailing and the Confidential Council addressed their complaints to the Trustee, who requested the employer to call at his office and answer the charges. When he failed to appear he was taken into custody by the police on the order of the Trustee who then invoked Honor Court proceedings. The Court found that (1) there existed no mutual trust between leader and following; and (2) the failure to pay for overtime in accordance with the regulations, to abide by his promises to the Labor Front officials, and to answer the appeal of the Trustee constituted a malicious exploitation of labor through abuse of a position of authority and a violation of social honor. He was deprived of the right to continue as leader of his enterprise.

[44] Judgment of Feb. 5, 1935, 23 *ibid.*, I, 74.

[45] Judgment of March 22, 1937, 30 *ibid.*, I, 110.

[46] Judgment of Nov. 17, 1934, 22 *ibid.*, II, 175.

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In cases involving violations of wage and labor regulations, the most numerous class to come before the Honor Courts, two elements are usually established: (1) "exploitation" is regarded as engendering mistrust between the employer and his following; (2) the fact that appeals of the Labor Front and warnings of the Trustee and other officials have been disregarded is adduced as evidence of "maliciousness". The more moderate commentators have insisted that the Honor Courts refrain from convicting for breach of social honor in cases which are primarily wage disputes, unless proof of "abuse of a position of authority" and "malicious intent", or, as some prefer, "unsocial attitude" is produced.[47] However, it has not been difficult for the Honor Courts to assume jurisdiction over any violation of labor regulations by reading into it an offense against social honor.

Dr. Mansfeld, in criticizing the opinion of a presiding judge that failure of an employer to make social insurance payments on time is a violation of social honor, has explained the distinction as follows:

> Every case of a wage payment below the legal standard does not entail as such an exploitation of labor in the meaning of the Labor Act. The wage regulation by setting up objective standards does give the employee a legal claim. This claim, however, is to be pursued in the Labor Courts. The judicial process of the Honor Courts should not be regarded as supplementing that of the Labor Courts. Honor Court jurisdiction comes into effect only when the injury to the member of the following rests unquestionably on an unsocial attitude of the leader of the enterprise. Such, as a rule, is the case when offenses are frequent and cumulative and, thus, do not permit the true spirit of the *Betriebsgemeinschaft* to function.[48]

On the whole, however, the Honor Courts have not been deterred by such fine distinctions from manipulating the social honor concept to fit any and every labor dispute. They have constantly stressed the view that their opinions have "edu-

[47] See note of Mansfeld to an opinion of Nov. 20, 1934, 22 *Arb.-Samm.*, II, 87.

[48] *Ibid.*, pp. 135, 137.

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cative" purposes and that they are agencies of the National Socialist state whose function it is to awaken recalcitrant and indifferent members of the *Betriebsgemeinschaft* to a realization of their social duties.

IV

If the preceding account gives the impression that the social honor process has been used principally against the employer rather than the worker, it is far from misleading.[49] The overwhelming majority of cases arise under No. 1 of Section 36 of the Labor Act and are directed against either the "leader" of the enterprise or persons in managerial positions. In 1936, for example, of 251 cases which came before the Honor Courts, involving 279 persons, fifty-four were directed against employees. Only nine of these were based on disturbance of the community spirit through malicious incitation of the following.[50] It can safely be remarked that, with a few exceptions, the Nazi state has not found it necessary to make use of the instrument of social honor to prevent labor from asserting an embarrassing voice in industry or disturbing the peace of the "business community". Whether it will be found advisable to make use of this "educative" weapon in the future against uncoördinated members of the working class is conjectural. Cases against workers who are at the same time Confidential Council representatives (and therefore usually orthodox members of the Nazi party) are very common in

[49] The assertion of Professor Brady that "while both the employer and workers come under the jurisdiction of the Honor Courts, primary emphasis is placed on offenses of labor against the Leader and the establishment," and that the principal effect of this particular fascist institution is to crush labor opposition does not accord with the facts. None will deny that fascist Germany has created successful instruments for crushing labor opposition. The Honor Courts, however, have not in practice been used with "primary emphasis" on offenses of labor against employers. Brady, *op. cit.*, p. 142.

[50] Special memorandum attached to Communication of D.A.F.

Figures for 1937 show the same trend with some proportionate reduction in the number of cases directed against workers. Of 342 cases brought before the Social Honor Courts in 1937, 312 were against employers or their representatives and only thirty against employees. See article by Otto Tolischus in *N. Y. Times*, May 18, 1938, p. 7.

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this class. An interesting one occurred before the Social Honor Court for Lower Saxony in June 1935.[51] A machinist in a factory employing 300 workers, a member of the Confidential Council, had assumed a provocative attitude toward his employers, asserting at meetings of the Council that they were "wastrels, reactionary, and unconcerned with the welfare of their employees", and threatened to "balance accounts" with them in the opportune future. He was hailed before the Honor Court who held that his expressions constituted a violation of the social honor of the leader. It was further established that his attitude was "non-coöperative" and dangerous because at a meeting of the Confidential Council, on the occasion of a dispute about the reduction of the wages of a carpenter employed by the firm, he had been heard to exclaim: "What! Still another betrayal of the workers." The Court found that his behavior was intended to disturb the community spirit and the industrial peace of the *Betriebsgemeinschaft*, and that by his unsocial and malicious attitude he had broken faith (*Treue*) with his employer and fellow-workers. Dismissal from his position was held necessary in order to remove a disturbing influence from the work community.

Other types of cases involving members of Confidential Councils are based on (1) inadmissible interference in the management of the business;[52] (2) overbearing or insulting attitude toward other employees;[53] or, (3) generally quarrelsome and unsocial behavior tending to disturb the peace of the *Betriebsgemeinschaft*.[54] Cases involving employees who are not members of Confidential Councils are still less frequent, most of them being concerned with disturbance of the community spirit of the enterprise through constant quarreling

[51] 24 *Arb.-Samm.*, II, 111.

[52] Opinion of March 20, 1935, *ibid.*, p. 183. The defendant in this case gave permission to certain employees to stop work before closing time, contrary to the orders of the employer.

[53] Judgment of Dec. 16, 1935, 26 *Arb.-Samm.*, II, 188; see also 25 *ibid.*, II, 187.

[54] Judgment of April 2, 1936, 27 *ibid.*, II, 103.

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and fighting with other members of the following.[55] Complaints against employees who have violated social honor are brought to the attention of the Trustee of Labor not by the employer but by other members of the following, usually the representatives of the Confidential Council.

The probable explanation of the comparative lack of cases directed against employees is simply this: the employee can not discharge his employer, so must bring his grievance to the Confidential Council and the Trustee of Labor; the employer is comparatively free to get rid of a troublesome worker, within contractual limitations which are not the result of collective bargaining.[56]

Aside from the few cases involving industrial disputes which have been brought against workers, the Social Honor Courts have been employed to ensure *Gleichschaltung* of a purely political character. In a case which arose in the fall of 1937, the National Honor Court, affirming in principle the stand taken by the Honor Court for Saxony, held that members of a religious sect known as "Jehovah's Witnesses", who for conscientious reasons refused to give the Hitler salute while at work and failed to hold their arms properly raised during the singing of patriotic Nazi songs at plant rallies, were guilty of a breach of social honor. Their non-coöperative attitude at Nazi functions and failure to show sufficient religious enthusiasm for National Socialism were regarded as endangering industrial peace and as a malicious disturbance of the spirit of the *Betriebsgemeinschaft*. By the time the case came up on appeal, the higher Court found that the defendant had withdrawn from all participation in the work of "Jehovah's Witnesses" and gave promise of becoming a good Nazi; penalty was reduced to a "warning".[57]

[55] Judgment of Sept. 4, 1935, 25 *ibid.*, II, 62.

[56] An entrepreneur who plans to dismiss more than ten per cent of his employees must give previous notice to the Trustee, without whose consent such dismissals do not become effective until four weeks after notice has been given. The Trustee may prolong this period for not more than two months. With his permission arrangements may also be made for spreading available employment among all workers. See Labor Act, Sec. 20.

[57] Judgment of Oct. 25, 1937, 32 *Arb.-Samm.* (March 1938), I, 58.

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Incitation to class struggle and labor agitation in general are also violations of social honor, but cases are rarely brought before the Honor Courts. The Labor Act itself does not say that it is illegal to strike or to use other forcible measures to further the demands of labor, but it is implied in the major premise of the Act. The Honor Courts have so held. An instance occurred in the summer of 1935, when several women employed in hoeing potatoes on a large farm belonging to a sugar company went on strike against a wage reduction. The strike was of short duration; when the manager of the farm, even with the aid of the head of the *NSBO*, could not induce the women to return to work at the lower scale of wages, he discharged them all, and then rehired some of them individually. It was estimated by the Court that the strike cost the firm 250 Reichsmark. One of the women, who was regarded as leader of the strike because she had been the first publicly to refuse work at the reduced wage and had walked off the field at the head of all, was cited before the Honor Court for labor agitation and inciting to class struggle. Said the Court:

> In propagandizing for the use of forcible measures in order to achieve better labor conditions, the defendant as a member of the following endangered the peace of the enterprise through malicious incitation of the following. Her behavior is an attack on the basic concepts of the Labor Act. In the National Socialist state measures aiming at class struggle, like the strike and lockout, are inconceivable. Although such measures are not expressly forbidden by the Act, it follows from Sec. 1, according to which employer and workers labor together in furtherance of the ends of the enterprise and for the common benefit of people and state.[58]

Her offense, the Court held, was the most serious that can occur under the Labor Act, and called for the severest penalty, that is dismissal from her job. As she was no longer working, and had no money with which to pay a fine, the Court imposed a "reprimand".

[58] Judgment of Nov. 19, 1935, 26 *ibid.*, II, 193.

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V

It is thus evident that the Honor Court can be employed to deal with labor agitation. Nothing, however, could be further from the truth than to regard it principally as a weapon against the workers. There are other and better means of dealing with any manifestations on the part of labor that it intends to resume policies of self-help. An employer need not fear collective action on the part of the working class, and not alone because the strike is outlawed. Any effective organization of the workers would be ruthlessly suppressed by the Nazi state. If we are to find the meaning of the social honor institution we must look elsewhere.

Figures reveal that Social Honor Court proceedings have been used principally against the smaller employer in industry and particularly in handicrafts and agriculture. Of 251 cases which arose in 1936, 189 were directed against employers; about three fourths of these involved handicraft, agricultural and small industrial enterprises. Of these proceedings 156 ended in a judgment of the Honor Court or a preliminary judgment by the presiding judge, the remainder being withdrawn on the motion of the Trustee and settled outside of court. Penalties ranged from a "warning" in many cases to six judgments for "deprivation of the right to act as leader of an enterprise", but the majority ended in fines averaging 100 Reichsmark. Only nine cases against employees were based on "malicious" labor agitation of the following; one third of these resulted in dismissals from positions previously held.[59] In 1936 only fifty-four proceedings involved workers. This is an astonishingly low figure when compared with the 17.8 million entitled to participate in the sickness and social insurance fund for the same year.

Practice has proved the social honor institution to be an efficacious weapon against the smaller employer. Larger industrial units, if only because of their very organization, have escaped its application. To a lesser extent it has been employed as a supplementary means of preventing labor agita-

[59] Special memorandum attached to Communication of D.A.F.

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tion. From another point of view it also provides those workers who have swallowed, but not yet digested, Nazi doctrine with the temporary illusion that in the New Germany the economic power of the employer will be curbed for their benefit. Psychologically, it caters to a middle-class fear of being regarded as "second-class persons", and evokes a spurious egalitarianism through the legerdemain of a *Betriebsgemeinschaft* in which each works for the equal benefit of all, and in which the pursuance of particular interests is a betrayal of an hypostatized "general will".

The major problem facing the Social Honor Courts has been to determine just exactly what their function is. If they are no more than labor courts for settling labor disputes and enforcing labor regulations, or criminal courts dealing with cases of libel and assault, then they are superfluous. Their task it is to prevent social unrest within German economic life, a matter of direct and immediate interest to the state. But the concepts with which they have had to deal do not easily lend themselves to legal form and judicial application. It has, therefore, been almost inevitable that they encroach on the more realistic domain of the Labor Courts and criminal courts. In one way the very elastic nature of the social honor concept has been its greatest asset, for it has permitted the Honor Courts to handle cases which would have embarrassed the stricter forms of the regular courts. Its flexible nature has enabled the Honor Courts to be "educative". They have served as formal machinery in the hands of the state ready to be used against small employers and workers who are not yet fully cognizant of the glories of the Third Reich. Their importance lies in the clear view they afford of the fascist image of labor relations.

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THE ECONOMIC PHILOSOPHY OF THOMAS PAINE

ON the eve of the Revolutionary War, Thomas Paine, a failure in England, landed in America and threw in his fortunes with the revolting colonists, fighting "for the security of their natural rights and the protection of their own property."[1] Then began a career which made him one of the most powerful pamphleteers of the eighteenth century. Not only did he play a prominent rôle in the American Revolution but also in that of France, and many English authorities feared that he might instigate one in his native land. Like any impecunious pamphleteer, he sought wealth, and like any enlightened child of the eighteenth century, he believed that success in business affairs was evidence of God's good will. But his was the luckless fate of the general run of pamphleteers. His life continued to be a precarious one, and his biographer must pass over in silence more than one instance where the necessities of livelihood required that the language of lofty idealism serve special interests.

In *Common Sense*, Paine justified independence on the ground of natural right, interest and common sense. Government must be distinguished from society. Men by natural gravitation join in society in order to assist one another to satisfy their wants; that is, society consists of the bonds created by exchange and contracts. It is produced by our wants. Government, on the other hand, is produced by men's wickedness. It is a necessary evil, a badge of man's fall or corruption. It can do no positive good; at best it restrains men's vices. Security of property is the end of government. Therefore men surrender a part of their property to furnish the means of protecting the rest.

The inequality of wealth is natural for it arises from differences in "industry, superiority of talents, dexterity of man-

[1] "Crisis" (1782), republished in M. C. Conway, *The Writings of Thomas Paine* (New York and London, 1894-1896), vol. I, p. 334.

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agement, extreme frugality, fortunate opportunities." It is not due to oppression and avarice. Oppression may be the consequence of riches, but is seldom the cause, and avarice generally makes men too timid to be wealthy.

On the other hand, the distinction between king and subject cannot be termed natural. It is a violation of the mutual compact and is the result of oppression and conquest. People remain blind to this interference with natural right and pecuniary interest through the force of fear, superstition, prejudice and prepossession. Hereditary monarchy has the least justification, for no generation has the right to bind future generations to a definite form of government.[2]

By eliminating commercial restraints and the expense of maintaining useless royalty and aristocracy, Paine argued, independence would promote the security and increase of property. Freedom of trade is the principal source of wealth for a trading nation. England's protection is unnecessary, for America's "plan is commerce", and since it is Europe's interest to have access to American trade, America will enjoy the friendship of Europe. American independence would even benefit the important classes of the English nation, the merchants and the manufacturers, because the increased commerce will enhance their profits. At the same time, America's commercial rights must be extended, for independence without commercial prosperity is hollow.[3]

The cause of America stood on "the broad foundation of property and popularity" and the latter depended on the former. True, a country's valor is evidenced by the character of the inhabitants and the bravery of the soldiers, but confidence of success is best evidenced by the support of men of substance. In this way a war becomes really popular.

The cost of the war is nominal. The creation of a national debt would be beneficial, for it would be a national bond.

[2] "Common Sense" (1776), "First Principles of Government" (1795), in *Writings*, vol. I, pp. 70, 75-84, vol. III, p. 268.

[3] "Common Sense", "Crisis" (III, 1777, IV, 1778), "Peace and The New Foundland Fisheries" (I, III, 1779), in *Writings*, vol. I, pp. 88, 204, 287, vol. II, pp. 3, 14.

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Since taxes are distributed within the country, they are a spur to industry; consequently in the absence of tax levies, the country would be poverty-stricken, just as without commerce, people would be indolent. An import duty is the best type of taxation, for it keeps foreign trade in the hands of Americans, and forces foreigners to contribute to the national defense.[4]

In the midst of his efforts in behalf of the revolutionary cause, Paine illustrated his philosophy of contract by publishing a pamphlet denying Virginia's claims to Western lands. He supported the contentions of land companies, with ambiguous titles, that the land belonged to the United States which alone could decide its disposition. He advocated that Congress organize the land with a view to creating new states. Effective government, which Virginia could not possibly furnish these frontier areas, would result in a rapid appreciation of land values. He now argued that land rather than trade was the real source of riches. The riches of other countries, based on industry and trade, were fictitious. They were matters of convention, subject to risk, but lands constantly increase in value with the growth of population. The Western lands were the property of the United States and the inhabitants had no right of self-government until they reached a certain number. Even when they became states, they were to have but limited Congressional rights for seven years. Paine felt that such new states would at first require more aid from the Confederacy than they could give to it, and that the inhabitants being largely composed of immigrants would require further tutelage. After the appearance of this pamphlet the Virginia legislature voted down a proposed land grant for Paine.[5]

In 1786, in the controversy over the Bank of North America, Paine developed the doctrine that a charter granted by the legislature is an irrevocable contract. Robert Morris, while financier general, promoted the Bank of North America which possessed, among its privileges, the power to issue bank notes. He obtained a perpetual charter from Congress in 1781 and

[4] "Common Sense", "Crisis" (IX, 1780, X, 1782), in *Writings*, vol. I, pp. 102, 305, 321, 340.

[5] "Public Good" (1780), in *Writings*, vol. II, pp. 61, 63, 65-66.

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another from Pennsylvania in 1782, with powers exceeding those of its model, the Bank of England. No other bank charter could be granted. Although it was to be under private control and for private profit, its incorporators justified its establishment on the ground that it was essential to supply the war needs of the government. Most of its funds came from the government's deposits of foreign loans, and the bank did not begin operations until after the surrender of Cornwallis, when the war, in fact, was over. It paid dividends at the rate of twelve to sixteen per cent. In 1785, petitions from various localities poured in to the Pennsylvania Assembly demanding the abrogation of the bank's charter.

These petitions denounced the bank as a vicious monopoly and money power, creating the prevailing havoc, insecurity and distress in the commercial community and causing the exportation of specie. They also accused the bank of discriminating in favor of speculators, of throwing the husbandmen and mechanics into bankruptcy and paying no share of its enormous profits to the government. Further, the petitions held that the large profits would attract foreign investment in the bank and the resulting foreign influence would reduce the American people to dependency on European courts and their intrigues. Even if the ownership were confined to Americans, this accumulation of wealth in a private society claiming perpetual duration would result in destroying freedom and equality in America, and the bank directors would be able to dictate legislation. Instead of being dependent on the government, the bank would control the government. Already the bank had threatened to destroy the state's paper money, by refusing to accept it. The arguments presented in the petitions led to the formation of a legislative committee which investigated the matter, and soon the charter was repealed.

Benjamin Franklin, who like Paine was a stockholder, persuaded Paine to write in behalf of the bank, and at the same time, Morris entered the Assembly to endeavor to reopen the case.[6] The result was a pamphlet entitled *Dissertations on*

[6] William Graham Sumner, *The Financier and the Finances of the American Revolution* (New York, 1891), vol. 1, pp. 25-35, 183-189; William M. Gouge,

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Government, the Affairs of the Bank and Paper Money. In it Paine maintained that the citizens should be aware of certain self-evident truths not because the bank is concerned, but because constitutional rights and privileges are involved. If the legislature has the power to repeal the charter or in any way interfere with the bank, then the laws of the land and the courts of justice are useless. When people form a republic, which means a government for the public good, rich and poor mutually pledge themselves to the rule of equal justice. This gives security to the rich and consolation to the poor, for it permits every man to have his own and protects him from the despotism of the majority. Since the people in this original compact renounce as unjust the tyrannical right to break contracts, the assumption of this right by their representatives, the government, destroys the sovereign principle of the republic and installs despotism. Like contracts between individuals, contracts by the legislature, as a representative of the public, with a person or persons cannot be broken or changed without the consent of both parties. A legislature is prohibited from voiding a contract not only by legal and constitutional restrictions, but also by "natural reasons, or those reasons which the plain rules of common sense point out to every man." If such prohibition did not exist, a government of established principles administered by established rules would become a government with discretionary powers during the existence of one legislature, and a new revolution would occur with the election of every new legislature. The charter of the Bank of North America, established by "the enterprising spirit of patriotic individuals", constituted a contract.

In answer to the objection to a perpetual charter, Paine admitted that no generation has a right to bind a future one; nor has it the right to break a contract into which it has originally entered. Future generations may do as they see fit in accordance with the pecuniary canons of justice. Unfortunately, however, Paine did not determine when a new generation begins, or how the contract may be broken. As for paying

A Short History of Paper and Banking in the United States (Philadelphia, 1833), Part II, pp. 31-38, 237-240.

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part of the profits to the government, Paine felt that taking tolls for charters smacked of British tyranny. The assertion that the bank should be dependent on government he regarded as "treason", since the citizens who compose the bank will not be free if they are dependent on every new legislature. This would be exercising an authority over them which the legislature does not exercise over other citizens, and thereby would destroy the equality of freedom which is the bulwark of the Constitution. Purchase of bank stock by foreigners is a good instead of an evil, for where their money is, there go their hearts, and so we obtain a stronger influence over them than they can exercise over us.

Instead of monopolizing the money of the country, the bank is merely a steward, a useful depository for its real owners—the holders of bank notes and deposits. By making available otherwise idle money, the bank quickens business and creates employment. Through the invigorated commerce, the government derives a revenue. Least of all should the agrarians complain, for the additional funds available prevent a monopoly of the market by the few wealthy merchants. Thus, for honor rather than for their own interest, the incorporators have established the bank. True, discounts have been stopped and loans have been called, but this was done either to settle accounts or to prevent exportation of specie.

Paine bitterly denounced the issuance of paper money by the state. The Pennsylvania Constitution contains nothing which gives the Assembly the power to issue paper money. Those urging paper emissions on the fictitious ground of scarcity of money are base debtors, hoping to defraud their creditors through depreciation. Specie is the emission of nature, but paper causes the exportation of specie. The value of specie is determined by the quantity nature made, and man has no share in its value whether it bears a government stamp or not. The love of specie may produce covetousness, but covetousness is not properly a vice but "frugality run to an extreme." Paper, however, costs only a trifle, and thus inevitably becomes too plentiful. Since its value depends on caprice and accident, the value varies greatly and thus becomes the object

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of jobbery and schemes of deceit. Every principle of justice is violated, and the bond of society is dissolved. An act to suppress the issuance of paper money is really an act to suppress vice and immorality. To make the paper legal tender is a violation of contract, destroying morality, and undermining freedom, security and property. "The punishment of a member [of the assembly] who should move for such a law ought to be *death*."

Bank notes, however, are not of this character, for they are redeemable in specie. For the restoration of credit Paine proposed an ingenious scheme whereby the bank would more effectively control the finances of the government and the wealth of the community. Instead of having the state issue paper, he suggested that the government borrow from the bank sufficient bank notes for its financial needs, and the bank and related mercantile interests would bring in money to pay the notes, since the interest on the loans would be a bounty to import specie. Such combining of authority with usefulness is the distinguishing characteristic of a republican system.

The bank obtained a new charter, but Paine temporarily lost his reputation among his old democratic friends.[7]

The French Revolution proved to be another great opportunity for Paine's talents. When he arrived in England, reform was in the air. Burke's bitter denunciations of the French Revolution were at first coolly received, and Paine replied to him with his finest work, *The Rights of Man*, which in large part recapitulated the arguments of *Common Sense*.

The origin and continuation of monarchy, aristocracy and church establishments, Paine insisted, are due to force and fraud. The beneficiaries are really beggars. Heavy taxation, needed to support them, causes riots and disturbances. If primogeniture is abolished, estates will be left equally among the heirs, and there will no longer be any need for sinecures in church and state for the younger sons of noble families.

[7] M. C. Conway, *The Life of Thomas Paine* (New York and London, 1892), vol. I, pp. 213, 215, 265, vol. II, p. 466; "Dissertations on Government; The Affairs of the Bank; and Paper Money" (1786), in *Writings*, vol. II, pp. 132-187; Tom Callendar, *Letters to Hamilton*, 1802, p. 36.

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Paine demanded removal of property qualification for voting on the ground of property rights. The disfranchised are slaves because, without the vote, they are not guaranteed the essential property right, that of freedom from restrictions in acquiring a living. Furthermore, every man over twenty-one pays taxes from his property or from his labor which is property. Above all, a property qualification renders property insecure, since men, deprived of rights through it, will rise against the cause of their oppression. However, Paine was really interested in obtaining the franchise for the business classes. In England in some places, he remarked, the lowest characters without visible means of support could vote; in other places, great merchants, manufacturers and tenant farmers with heavy capital investments could not.[8]

Paine strongly advocated less government and more society. Men are not improved by government, and "I take my stand" on the argument that his condition is to be improved by means of his interest instead of "mere theoretical reformation." The landholder, farmer, merchant and trader prosper from the aid each obtains from the others. "Common interest regulates their concerns", and the usages growing out of this intercourse are more influential than the acts of government. Society performs almost everything attributed to governments. The more civilized man is, the less need there is for government, and the natural operation of the parts satisfies men. The laws of trade and commerce are laws of nature, or the laws of society, and they are obeyed not because of government but because of interest. In the trading associations, where men act on the principle of society, the units unite naturally. Were governments suddenly to disappear, mankind would proceed in much the same fashion. Governments follow precedent and oppose enterprise, but improvements in agriculture, arts and commerce are due to the enterprise of individuals and private associations. The promoter asks only that the government leave him alone. The government functionaries are merely stewards with the duty to maintain the property and freedom

[8] "The Rights of Man" (1791-1792), "Address to the Addressers" (1792), in *Writings*, vol. II, pp. 312, 321, 409, 472, 499, 500, vol. III, pp. 88-89.

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of the people. The need of government is limited to the fact that every man wishes to pursue his occupation and enjoy the fruits of his property. Consequently combinations of laborers to raise wages are unlawful, and the practice of fixing maximum prices, though famine prevails, causes the greatest distress.[9]

Commerce, Paine asserted, is the great civilizing force. Nature has made commerce the means of eliminating war, for it is cheaper to obtain commodities through commerce rather than through war. Commerce is beneficial, because merchants get rich from the natural increase in value of the objects exchanged. Thus, while foreign commerce is advantageous, domestic commerce is more so, for all rather than one-half the benefits lie within the nation. Furthermore, since commerce is fostered only by the reciprocal interest of nations, attempts to control commerce by navies and conquest are a futile waste of resources and the heavy cost involved leads to domestic oppression. Therefore, Paine reasoned that the combined reduced fleets of England, Holland, France and the United States could force Spain to give South America her independence and thus open countries of immense wealth to world commerce. This area would provide a ready market for English manufactures, whereas England at the moment was drained of specie to pay for the imports of competing manufactures from India. With good reason, Paine declared that "in all my publications, wherever the matter would admit, I have been an advocate for commerce."[10]

Paine's suggestions for financial reform were designed to relieve the business classes of heavy taxes. The support given to useless government establishments could be directed toward eliminating the poor rates. The discontent of the poor would be allayed and poor relief abolished by such measures as education, old-age pensions, and work barracks for the unemployed. Education was to consist of "reading, writing and arithmetic". Thereby the children could obtain a profitable living and cease to be a drain on the industrious. Old-

[9] "The Rights of Man", pp. 406, 407-408, 409, 442-443, 456; "Letter to Danton" (1793), in *Writings*, vol. III, p. 137.

[10] "The Rights of Man", pp. 456-457, 459-460, 511-512.

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age pensions were to consist of small annual payments of £6 to those between the ages of fifty and sixty, and £10 thereafter. Taxes paid by the consumer, such as the excise and customs taxes, should be retained so that trade would not be disturbed. Taxation of land and land incomes was to be arranged to encourage division of the estates, and thereby eliminate the institution of primogeniture. However, "it would be impolitic to set bounds to property acquired by industry." [11]

The English financial system, as one of credit, was based on paper rather than real money. Credit was the child of credulity and, if the holders of Bank of England notes were to demand specie, the entire system would collapse. The contradiction between his views on the Bank of North America and those on the Bank of England was somewhat resolved by his argument that to the extent that the Bank of England issued paper, based on discounted bills growing out of commercial transactions, it was engaged in legitimate business.

In fact, Paine would tamper but little with the debt. Its origins might be shady, but it was not the crime of the present holders. Furthermore, the interest should not be touched for it might affect adversely legitimate credit and commerce. As the interest was paid in Bank of England notes, it kept alive a capital useful to commerce and thereby neutralized to a considerable degree its own burden. Since the amount of specie was inadequate, it would be bad policy as well as unjust to eliminate a capital that met the defect of the circulating medium. Still, in view of the discontent over the national debt, it would be good policy for the holders to allow a slight tax on the interest.[12]

As a result of attacking monarchy in his *Rights of Man*, Paine was ordered to stand trial. At first, this did not disturb him, because reform was a common cry, and a trial would give wide publicity to his works. However, when the British government became intent on ruthlessly suppressing even nominal

[11] *Ibid.*, pp. 471-480, 483, 484, 487, 494, 496-497.

[12] *Ibid.*, pp. 374, 376, 378, 506, 507; "Prospects on the Rubicon" (1787), "The Decline and Fall of the English System of Finance" (1796), in *Writings*, vol. II, p. 214, vol. III, pp. 286-312.

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demands for reform, Paine left the country to take a seat in the French National Convention.

In France, Paine once more advocated his ideas. As in the case of England, he suggested reforms which would relieve the poor without disturbing trade, commerce or the unrestricted accumulation of wealth. Toward this end, he published *Agrarian Justice*. It was occasioned by the unsuccessful communist revolt led by Babeuf against the reactionary French government. Paine denounced the leaders for attempting to overthrow society instead of waiting for the customary elections or proposing useful measures. Of course, the great mass of poor are ever increasing and have become a hereditary race. In the natural state, poverty did not exist, but civilization has created both splendor and wretchedness side by side. This situation has been caused by the rise of ownership of land, whereas in the original state land was common property and every man was a joint proprietor in its products. Increasing population necessitated private cultivation, and since it is impossible to differentiate the improvement from the land itself, the latter became private property also. To obtain for the dispossessed poor their share in the common or natural property, a fund was to be raised by levying a death duty of ten per cent. Personal property should be subject to the tax because it is the effect of society, not that the individual owes society the property, but that without society an individual cannot acquire it. According to Paine's plan, the fund was to provide the rather small amount of £15 for each individual, rich or poor, on reaching the age of twenty-one, and a yearly pension of £10 after the age of fifty. The scheme would have many beneficial results. The national lands would sell at better rates. A young couple could obtain land and stock, and become profitable citizens rather than burdens on society. The wealthy classes particularly would benefit, for the unjust character of modern civilization might lead to violence against property. When display of wealth simply serves to arouse the masses to question the right of property, it is only in a system of justice that the possessors can rest secure. Such danger would be removed by the tax. The masses would see

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that the riches of one above another increase the national fund proportionately and that the more riches a man acquires the better it is for the poor. Paine truthfully said, "I am a friend of riches." [13]

On his return to the United States in 1802 Paine found that the prevailing sentiment was hostile. Jefferson, who was in his second presidential year, had praised *The Rights of Man,* as the orthodox doctrine of American political theory, but the Federalists regarded Paine as a regicide. In religious circles he was denounced as an atheist for his *Age of Reason* which expounded Deism. He had written that God was known through nature and the laws of science were the formulations of the laws of inscrutable, beneficent nature. Therefore, if men would be happy and moral, they should follow the ways of nature as expressed in the "wise and economical sayings" of Franklin.[14] The church members, however, only noticed his diatribes on organized religion and his characterization of the Bible as an obscene document; they failed to see his metaphysical defense of business practice and ways of conduct.

Jefferson sought Paine's advice on important questions, but made little effort to aid him. Paine wrote the President that when Napoleon had conquered England, the United States should seize Canada and the Bermudas. In another communication he expounded views which were later expressed in the Monroe Doctrine. He thought that the United States should mediate between France and rebellious Santo Domingo, and guarantee the settlement. This would give the United States great political and commercial influence in Santo Domingo.[15] Paine advised Jefferson on how Louisiana could be obtained from Napoleon. He suggested that Jefferson propose to purchase the territory, and then inform Napoleon that the inhabitants of the Western territories were growing so powerful and restive, that it was impossible to restrain them from seizing New Orleans, and that it was equally impossible for France to prevent them.[16]

[13] "Agrarian Justice" (1797), in *Writings*, vol. III, pp. 324-344.

[14] "The Age of Reason" (1796), in *Writings*, vol. IV, p. 35.

[15] *Life*, vol. II, pp. 333, 344, 346.

[16] Letter to Jefferson, Dec. 25, 1802, in *Writings*, vol. III, pp. 379-380.

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Jefferson was worried over his constitutional right to make the purchase, but Paine informed him that the Constitution had nothing to do with the matter since its framers could never have foreseen the occasion. The transaction was within the president's jurisdiction. It was a sale and purchase similar to any financial transaction. The object was an increase of territory for a valuable consideration.

Concerning the government of the territory, Paine recommended a period of tutelage for the French inhabitants, since they were not acquainted with democratic institutions. At the same time he asked Jefferson about the acquisition of lands in the territory by individuals, for he had friends by principle in the British Isles who had funds to purchase unlimited amounts. He suggested that indentured servants be obtained as a labor supply, since sale of lands and settlement would be retarded until laborers were obtained. Indentured servants yield more revenue to the government than negro slaves, for their consumption of imported articles is much greater. The government, therefore, should supervise a system of indentured servitude in the newly acquired territory. On the expiration of their service, Congress, rather than their masters, should give them a few acres which would serve as an incentive to purchase more at a later date. Paine pointed to the good done by the Quaker merchants of Pennsylvania. They went extensively into the business of importing indentured servants, for it was consistent with their moral principles of bettering the condition of the poor and ending negro slavery. Free negroes might also be imported into the territory through government financial aid. Congress should supply the passage to New Orleans, and the negroes, after working for the planters for a few years, should be made share croppers.[17]

When the inhabitants of the Louisiana territory petitioned for self-government, they advanced Paine's political philosophy of the rights of self-government in accordance with "the laws of nature." The colonial arguments against England were cited. Paine replied that the Louisianans were not experienced in the representative system, that the colonies had ob-

[17] *Life*, vol. II, pp. 319-320, 321-323, 332, 347-349, 350.

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tained their rights by an expensive war, that it was not the duty of the United States to fight the world's battles for the world's profit, that the territory was not a contracting party to the cession but had merely been purchased. Congress was the guardian of this valuable property for all the United States, and it would be unwise to place the territory under the jurisdiction of the people whose freedom had just been purchased. Repayment of the purchase price must come from the land sales. It was better for the inhabitants that Congress govern, since its effective government would encourage increased population and thereby raise the land values. The fear of the inhabitants that governors with no interest in the welfare of the territory might be appointed was unfounded. True, despotic governments, like those of their former masters, might do so, but their references to practices of their old rulers revealed that the inhabitants did not understand the principles or interest of a republic, or the difference between governments distant and despotic and those domestic and free.[18]

During this period Paine's views regarding banks underwent a change to a more democratic philosophy. Scandals had occurred in connection with bank charters, particularly in Pennsylvania. He now claimed that neither the Pennsylvania Constitution nor that of any other state gave the government the right to grant charters or monopolies. The spirit of the times was against all such speculations. Furthermore, long term charters were a violation of the principle of annual election of the legislature. Charters for more than one year meant that one legislature could pass measures beyond the power of succeeding legislatures to correct. Paine did not suggest that incorporation should be forbidden, but rather he proposed a device which he had originally suggested to prevent the revocation of the charter of the Bank of North America. Extraordinary matters such as incorporations should be passed by two successive legislatures. If the citizens disliked a measure, they could refuse to reëlect those who had supported it.[19]

[18] "To the French Inhabitants of Louisiana" (1804), in *Writings*, vol. III, pp. 430-436.

[19] "Constitutions, Governments and Charters" (1805), in *Writings*, vol. IV, pp. 468-469.

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As a whole the works of Thomas Paine present a scheme of things closely resembling that of the Benthamites, which came a generation later. His views foreshadow Herbert Spencer's philosophy of a contrast between a system of status and one of free contract. Abolition of church, aristocracy and royalty would solve all social problems by leaving individuals to the natural play of free contracts. Just as *Common Sense* advocated independence through the elimination of unnecessary expense and the abolition of restrictions on commerce and property, and thus on personal rights, so on the same basis *The Rights of Man* called for the abolition of royalty and aristocracies, and *The Age of Reason*, of organized religion.

This elimination of all institutions, except those involving property and its security, would permit the expansion of business enterprise. Paine's opponents, including Hamilton, did not appreciate the drift of his writings, for his objective was theirs. Hamilton felt that wealth could be secure only with a strong government in the hands of men of great wealth, for the mass of men were ignorant and turbulent. Paine believed in the democracy of property owners, which by virtue of the beneficence of the uniting bond of property and contract would duly recognize the sanctity of all contracts including all agreements made by the legislature with individuals.

So easily did these two schools of economic thought fuse, that the major argument used by Paine to deny the right of the Pennsylvania legislature to abrogate the charter of the Bank of North America was precisely the one used by Hamilton to deny the right of Jefferson to reform the federal judiciary in 1801. Both the grant of the charter and the establishment of the judiciary were in the nature of contracts, and no legislature could interfere with the original terms except with the approval of the other contracting body.[20]

[20] For a general discussion of Hamilton's economic philosophy, see Rexford Guy Tugwell and Joseph Dorfman, "Alexander Hamilton: Nation Maker", *Columbia University Quarterly*, Dec. 1937, March 1938.

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MOULTON'S THEORETICAL ANALYSIS

I

THE Brookings Institution has published four volumes [1] as the result of an ambitious inquiry into the nature of the business cycle. The third volume contains the theoretical conclusions which are derived from the statistical analysis of the first two and leads to the practical proposals of the fourth. The study, therefore, appears to be inductive in nature, and Dr. Moulton has said: "Unless a critic is able to show that our data are inadequate or irrelevant to the issues involved, he cannot be regarded as having proved our conclusions false." [2] But the statistical analysis has already been subjected to such substantial and unanswered criticism [3] that it seems proper to consider whether the theoretical analysis can stand apart from the statistics on which it is presumably based. I believe this to be an important line of investigation because the Brookings theoretical conclusions are in line with a body of thought—perhaps best designated as underconsumptionist—which is characterized by the basic belief that an increase in wages relative to prices (or a decrease in prices relative to wages) offers the most promising way out of depressions. This article will attempt to show that the Brookings statement of this position is theoretically inadequate.

[1] *America's Capacity to Produce*, by E. G. Nourse and Associates, 1934; *America's Capacity to Consume*, by H. G. Moulton, M. Levin and C. Warburton, 1934; *The Formation of Capital*, by H. G. Moulton, 1935; and *Income and Economic Progress*, by H. G. Moulton, 1935. All were published at Washington.

[2] Harold G. Moulton, "Capital Formation and Inequality: In Reply", *American Economic Review*, December 1936, pp. 617-618.

[3] Arthur F. Burns, "The Brookings Inquiry", *Quarterly Journal of Economics*, May 1936; W. H. Lough, *High Level Consumption* (New York and London, 1935), appendix G; and Henry H. Villard, "Dr. Moulton's Estimates of Saving and Investment", *American Economic Review*, September 1937, pp. 479-489.

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The conclusions of the third volume of the Brookings series may be summarized as follows: investment increases only at those times when consumption is also increasing. Therefore, "classical" theory was in error when it assumed that saving would cause capital goods to be constructed even at times when the demand for consumption had been reduced by the increase in saving itself. Instead, capital formation depends upon "a concurrently expanding consumptive demand."[4] With a fixed national income, a simultaneous increase in expenditure both for investment and for consumption is impossible, but the banking system, by credit expansion, can remedy what would otherwise be an "economic dilemma". However, little emphasis is placed upon the rôle of the banking system in the period after 1920, because in that period monetary saving was estimated as being so greatly in excess of "net productive investment", that even without credit expansion ample funds were available for investment in new capital. But the authors of the Brookings reports contend that savings, while creating a fund out of which new investment can be financed, will be invested only when there is an expansion of consumption demand. Such an expansion, they argue, increases the utilization of our present plant capacity and so gives rise to new opportunities for profitable investment. When consumption demand does not expand, savings will not be invested but rather will be "dissipated", mainly in bidding up stock market prices. This leads to the conclusion that economic progress awaits such a redistribution of real income as will increase consumption demand, hence the percentage of capacity utilized, and so ultimately the utilization of "excess" savings.

The present writer hopes to show that there is no meaning of "dissipation" which can be applied to conditions before 1929 and at the same time can be an explanation of why plant capacity was not "fully" utilized then. Further, the "economic dilemma" suggested by Dr. Moulton will be considered, in an attempt to show that under certain circumstances investment *may* be undertaken while consumption demand is declining, as was maintained by classical analysis. Finally, Dr.

[4] *The Formation of Capital*, p. 175.

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Moulton's contention, that the rate of interest fell before 1929, will be challenged in view of the admitted rise in profits during the same period.

II

In this discussion "national money income" denotes the sum of the means of payment in any country multiplied by its "income velocity", that is, the average number of times the means of payment are used, within a year, to purchase the current output of finished capital and consumption goods. The means of payment of a country, or its total supply of money, may be defined as the sum of deposits subject to check in the hands of the public and cash outside banks. Of course, the total money stock is used to purchase many things other than current finished output. Money so used may be said to have "exchange velocity", as opposed to income velocity, and need not concern us here.

Dr. Moulton contends that the "excess" of savings over capital investment was largely "dissipated" in bidding up stock market prices. "What became of the money savings which did not eventuate in new plant and equipment? The answer is that, aside from that portion which went into foreign issues, the excess savings were absorbed, dissipated, in bidding up the price of outstanding securities."[5] It is impossible to find an exact definition of dissipation in Dr. Moulton's sense, but it seems clear that it may have two meanings: either that a certain portion of the total money supply, which normally would have been used to purchase the current output of finished goods, was not so used—that is, had zero income velocity—because its owners were employing it exclusively in the exchange of claims to past production; or it was used to purchase that portion of the current output of finished goods which is not included in what Dr. Moulton means by "productive capital".

I doubt if Dr. Moulton is using the second of these meanings; for if he is, his analysis will not explain any alleged failure to utilize "fully" our plant capacity. Yet it is not

[5] *The Formation of Capital*, p. 151.

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difficult to show that hoarding was not large before 1929, so that the first possible meaning—that "dissipation" involves zero velocity for money normally used to buy current output—seems incorrect as applied to that period. Part of Dr. Moulton's difficulty is illustrated by the following passages: "After the supply of *new issues* has been absorbed the alternatives for investors are (1) hoarding, and (2) buying securities *already outstanding*." [6] These two possibilities are not alternatives; they amount to the same thing, so long as the sellers of already outstanding securities do not use the proceeds of the sale to buy new issues (which Dr. Moulton implies are no longer available) or spend them on consumption or "unproductive" capital. But as Dr. Moulton uses "dissipation" in various other ways,[7] we shall have to examine the word's meaning in more detail.

Let us first deal with that meaning of "dissipation" which involves zero velocity of a portion of the total money supply. Most investigations of the "absorption" of money by the stock exchange have concluded that the amount of money needed for the actual mechanics of security purchases is so small as to be relatively insignificant.[8] If, however, a portion of a roughly fixed money supply, which was normally used to buy current output, were to be held idle between stock market purchases by its various recipients, so that it was not put to its normal use, and if the velocity of other money did not increase, the national money income would fall by the amount of the

[6] *American Economic Review*, December 1936, p. 620.

[7] Dr. Moulton suggests that outlets for savings in "excess" of the amount absorbed by "productive capital" include: (1) foreign investments; (2) bidding up security prices or "stagnating" in bank deposits; (3) financing government deficits; and (4) rapid expansion of new industries. Of these, foreign investment and government deficit financing usually would result in a demand for consumption goods. New industries would normally invest the savings they receive, creating a demand for capital goods, although they may hoard the proceeds. Such hoarding would have the same effect as "stagnation" in bank deposits or bidding up the price of securities. Thus the outlets suggested by Dr. Moulton for "excess" savings may involve a demand for capital or for consumption or may involve hoarding.

[8] C. O. Hardy, *Credit Policies of the Federal Reserve System* (Washington, 1932), p. 167, and sources there cited. During severe crises such funds are perceptible, but Dr. Moulton does not confine his analysis to such periods.

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money kept idle. But, according to Currie's estimate,[9] in 1929 the total money supply was almost constant, and in 1928 it increased but 1 per cent. If these figures are correct, the income velocity of money increased 2 per cent in 1928 and 4 per cent in 1929—the most rapid increase since 1923.[10] Even allowing for a considerable margin of error in these figures, it is impossible to believe that the stock market reduced the income velocity of any considerable amount of money, unless one also believes that this reduction was more than offset by increases in velocity elsewhere within the total money supply, so that there was on balance a greater velocity than before. But, as this seems most unlikely, it is fair to conclude that "excess" savings were probably not hoarded but instead were spent for some form of current output. In another connection Dr. Moulton appears to recognize this as follows: "Our analysis did not show that the aggregate disbursements of national income to individuals were less than the aggregate prices of the goods and services turned out; on the contrary, we contended that they were virtually identical." [11] If "dissipated" savings had been unused, the remaining income of individuals would have been less than the aggregate value of goods and services priced on the basis of the unreduced national income. But if "excess" savings were used, they were spent for some kind of current finished output; and if the total money supply is being spent at the normal rate on some form of output, then changes in the exchange velocity of the same total money supply will not *directly* affect the total amount of current output, irrespective of the effect that such changes in exchange velocity may have on stock market prices.

[9] L. Currie, *The Supply and Control of Money in the United States* (Cambridge, 1934), p. 33.

[10] *Ibid.*, p. 6. The estimates of Professor J. W. Angell (*The Behavior of Money* [New York and London, 1936], p. 190) give a 2 per cent rise in the total money supply in 1928 and a 1 per cent rise in 1929; this gives an increase in velocity of almost 2 per cent in 1928 and just under 3 per cent in 1929, if we use Kuznets' latest estimate of the national income (*National Income and Capital Formation, 1919-1935* [New York, 1938], p. 8). The actual velocities work out at 2.930 in 1927, 2.985 in 1928, and 3.074 in 1929. Thus both estimates indicate that velocity rose in both 1928 and 1929, with the sharper rise in the latter year.

[11] *The Formation of Capital*, p. 181.

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Indirectly, of course, the resulting speculation may—probably will—have an effect on business activity; but the effect will be the result of the speculation and not of the "dissipation" of "excess" savings.

III

Now let us consider briefly the second and less likely meaning of "dissipation"—that "excess" savings were "dissipated" because they were used to purchase that portion of the current output of finished goods which is not included in what Dr. Moulton means by "productive capital". Such "excess" savings may have been used to purchase consumption goods or they may have been used to purchase goods normally classified as capital goods, but excluded by Dr. Moulton from his definition of "productive capital". No one would deny that during the period before 1929 people spent on consumption not only their incomes but also money which they derived from capital gains. The amount so spent on consumption should be subtracted from the total of individual savings in any period to find the amount of savings available for expenditure on capital goods.[12] Those savings spent on consumption have in a sense been "dissipated", at least as savings, even if they constitute a demand for current output. But this is hardly the sense of "dissipation" that Dr. Moulton is using, because savings spent on consumption would directly increase the utilization of existing plant capacity and therefore would be no explanation of why such capacity was not "fully" used before 1929, which is what he is attempting to explain by "dissipation".

The same conclusion applies to the use of "excess" savings to purchase goods normally thought of as capital, but excluded from Dr. Moulton's definition of "productive capital". Dr. Moulton defines capital as "concrete material instruments . . . resulting from past production which are being directly utilized in the processes of further production — either of consumers' goods or new tools of production."[13] He specifically

[12] A more extended treatment of capital gains by the present author is contained on page 486 of the *American Economic Review* for September 1937.

[13] *The Formation of Capital*, pp. 8-9.

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excludes durable consumers' goods and buildings (including apartment houses) from his concept of capital; he also excludes working capital (including all sums used to hold stocks of goods) and funds used to finance installment buying from his list of the outlets for "productive investment". In short, what he appears to mean by "productive capital" is "plant and equipment"; the two phrases as he uses them are interchangeable.

Therefore, Dr. Moulton may mean that savings are "dissipated" when they are invested in an apartment house rather than in a factory; for in the latter case they become a part of "productive capital", while in the former case they do not. But surely his meaning is not simply that "productive investment" would have been larger if savings in "excess" of the amount spent for "productive capital" had been spent for such capital rather than "dissipated" on "unproductive" houses. For again, as with money spent on consumption, money spent on houses would directly increase the utilization of existing plant capacity and so would be no explanation of unused capacity, which is what Dr. Moulton is trying to explain by "dissipation".

We find, then, that the first meaning of "dissipation"—that of zero income velocity—cannot be applied to the period before 1929, while the second meaning—that of expenditure other than for "productive capital"—affords no explanation of unutilized plant capacity. Therefore, we may conclude on theoretical grounds that "dissipation" either did not exist before 1929 or was irrelevant to the phenomenon which it was used to explain.

IV

If, then, any savings which were "dissipated" before 1929 were spent for some form of output, what is left of the "economic dilemma" Dr. Moulton has postulated? The "dilemma" may be summarized as follows: money taken from consumption reduces the demand for goods, hence the amount of productive factors in use, hence the demand for new capital, and so ultimately the demand for the very funds which were saved rather than spent on consumption. Therefore, capital formation and consumption can only expand together, the ex-

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pansion being made possible by an extension of bank credit.[14] All available statistics demonstrate this inevitable similarity of movement.[15]

In chapter iii of *The Formation of Capital* Dr. Moulton analyzes "what would happen on the side of capital formation if consumption were positively declining." In chapter x he deals with "a situation in which the flow of funds into consumptive channels is actually increasing but at a less rapid rate than the flow into savings channels."[16] We shall deal only with the first of these situations; for, if it can be shown that capital formation *may* expand while consumption is declining, it obviously follows that capital formation *may* expand when consumption is also expanding, but at a less rapid rate.

Let us first comment on the statistical "proof" offered. Dr. Moulton seems surprised that he can "find no [statistical] support whatever for the view that capital expansion and the extension of the roundabout process of production may be carried on for years at a time when consumption is declining."[17] But I challenge Dr. Moulton to cite any economist who has ever argued that capital formation need cause any absolute decline in consumption—far less a decline for years at a time—*when the absolute level of the national income is increasing*. Yet all Dr. Moulton's statistics apply to such periods. Of course, the "classical" theorists who dealt with the problem of saving and investment often envisaged, for simplicity's sake, a situation in which the national income—real and monetary—was assumed to be constant, so that an expansion of investment *did* necessitate curtailment of consumption. But, if investment were expanding more rapidly than consumption at a time when the national income was expanding, then the absolute level of both consumption and capital creation might expand while their relative importance varied in complete accord with "classical" theory (so long as the relative change was not greater than the effect of the expansion). Therefore, similarity of statistical movement does not justify the conclu-

[14] *The Formation of Capital*, chaps. vi-viii.

[15] *Ibid.*, chap. iv.

[16] *Ibid.*, p. 137.

[17] *Ibid.*, p. 48.

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sion that capital formation is "dependent" upon a concurrently expanding consumption demand. Concurrent expansion will occur, from the monetary point of view, in a country experiencing an expanding national income; it will occur, from the real point of view, in a country experiencing technological improvements; only in a country experiencing neither, which Dr. Moulton cannot find statistically, would classical analysis be challenged by statistical proof that consumption and capital production always move together.

Let us remember that Dr. Moulton is attempting to prove that capital formation and consumption can only expand together. All he has shown is that when the national income is increasing, the *absolute* movements of capital formation and consumption have been in the same direction. We may now undertake to show that they *need* not move together, even when the national money income is constant, and that it is not necessary to call on credit expansion as a *deus ex machina* to resolve what would otherwise be a "dilemma".[18]

Had Dr. Moulton argued that savings *may* not be used when consumption demand is declining, he would find most modern theorists in agreement with him. The absence of profitable uses for savings at such times may cause hoarding and a cumulative decline in the national income. This certainly took place after 1929. But Dr. Moulton apparently maintains that savings can never find a use when consumption demand is declining—that they must then be hoarded. (I am assuming that the proper meaning of "dissipation" is that of zero income velocity—that is, hoarding.) This is because he overlooks the

[18] Professor Bye has pointed out (*American Economic Review*, December 1936, p. 614) that Dr. Moulton must argue that capital formation cannot take place if the national money income is constant (unless, perhaps, prices of capital goods and consumption goods fall at the same rate). But when Professor Bye criticized Dr. Moulton on the ground that his statistical "proof" showed only *absolute* movements and therefore did not invalidate "classical" analysis (*ibid.*, pp. 613-14), Dr. Moulton answered that his figures "were not advanced as throwing light on *relative* changes", and refers to his consideration of *relative* changes in chapter x (*ibid.*, p. 618). But we have already suggested that if it can be shown that capital formation can expand when consumption is declining, it will not be necessary to discuss the case in which consumption is increasing but at a rate less rapid than the rate of increase of capital.

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possibility that savings may be used to *decrease cost* at times when they might be hoarded if their only use was to *increase output.* After stating that savings "merely constitute a supply of money available to business enterprisers for use in the construction of new plant and equipment", he continues: "Whether it will be profitable to use such funds in the formation of new capital depends upon the possibility of *selling the commodities which such capital can produce.*" [19] That this does not necessarily follow can be shown by a simple example. Suppose savings increase from 20 per cent to 30 per cent of the national income—say from $200 to $300 out of an income of $1,000. Only $700 rather than $800 worth of consumption goods would then be demanded. In these circumstances capacity for producing such goods may either be 7/8 utilized with price unchanged or may be 100 per cent utilized with price at 7/8 its former level.[20]

But, in whatever manner the reduction of consumption expenditure is distributed between lowered prices or lowered utilization of capacity, costs will no longer be the same, because the additional saving will tend to reduce the rate of interest. Suppose the rate of interest falls from 6 per cent to 4 per cent, then 7/8 of the former interest payment will make possible the utilization of a 131 per cent [21] increase in capital per worker (or, more strictly, per "direct" factor). If, however, this allows seven workers to produce what eight previously produced, then, even if price has fallen by the full amount to 7/8 its former level, it still is profitable for new

[19] *The Formation of Capital*, pp. 156-157. (The italics are mine.)

[20] This latter possibility Dr. Moulton avoids, so that he is able to correlate a high utilization of consumption capacity with a large derived demand for new productive capital. But if costs were unchanged and price had fallen, then firms would be making exceptionally heavy losses and not demanding new capital—perhaps not even replacing their old—even if running at 100 per cent of capacity. As this situation does not fit into Dr. Moulton's analysis, he implicitly assumes that price would remain unchanged, so that fluctuations in demand are concentrated upon the amount of capacity used. Yet when only 7/8 of capacity is used, business is more profitable (and so more likely to buy capital) by at least the amount of the variable costs saved than it is when it is running at 100 per cent of capacity.

[21] $7/8 \times 6/4 = 131$ per cent.

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concerns to enter the industry, although existing firms cannot earn their fixed charges. If capacity is unused, this must mean that prices have tended not to fall by the full 1/8, so that the situation is *even more favorable* for investment. That saving tends to reduce cost, and so to make investment profitable even if consumption prices have fallen,[22] shows that savings may be utilized even when consumption demand is declining.

The example given above does not depend on the discovery of any new invention or technique. Such discoveries greatly increase the demand for capital. If the total costs of the new method just discovered—or, for that matter, though much less likely, made economic by a reduction in the rate of interest—are less than the direct costs of the old method, then all capital in the industry will be junked as soon as it can be replaced. But Dr. Moulton seems to consider the demand for capital for these uses unimportant. Thus he states: "But, by and large (business taken from competitors aside), expansion will only be profitable if the total market for the goods to be manufactured is also expanding."[23] However, when inventions are being made or capital is increasing faster than population, business taken from competitors cannot be disregarded. For then investment is regularly undertaken by firms which, by reason of their newer processes or greater capitalization, are able to drive their competitors to the wall and gain an increasing share of a total that may be fixed or declining.[24] What Dr. Moulton's thesis ignores is the simple fact that the prospect for profits (and so the amount of investment) is determined just as much by variations in the *cost of producing* consumable goods as it is by the current demand for them. Thus, even if real and monetary national incomes are constant,

[22] See J. E. Meade, *The Rate of Interest in a Progressive State* (London, 1933), for an extended theoretical treatment of this problem, especially chapter vii.

[23] Moulton, "The Trouble with Capitalism Is the Capitalists", in *Fortune*, November 1935, p. 79.

[24] The difficulties of the commentator may be illustrated by the fact that chapter viii of *Income and Economic Progress* contains a fine description of the effects of competitive investment without any apparent realization that this process will employ savings even if consumption expenditure is decreasing.

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savings *can* still be increased and consumers' expenditures correspondingly decreased without necessarily causing an "economic dilemma".

V

Before leaving Dr. Moulton's analysis, his treatment of the rate of interest is worth examining. Between 1923 and 1929 savings, according to his estimate, increased 7.5 billions, while "productive investment" remained roughly constant. If there were this huge "excess" of savings over the demand for them, one would think that the price of savings—that is, the rate of interest—would have fallen precipitously. Indeed, long-term interest rates, as indicated by bond yields, fell from around 5 per cent in 1922 and 1923 to perhaps 4½ per cent in 1927, and then rose, at a time when Dr. Moulton argues savings were increasing, through 1928 and 1929. Further, the return on existing capital is usually considered a major factor in determining what can be paid on new capital. But while business men were unable, in Moulton's opinion, to find new "profitable" uses for savings, profits, as a rate of return on capital investment, rose from 7.6 in 1922 to 9.2 in 1929, according to his own figures.[25] The situation, then, was one in which (1) supply was grossly in excess of demand, but the price (the rate of interest) did not fall; and (2) no increased uses for capital could be found, despite an increase in the earnings of existing capital.

Dr. Moulton is aware of this inconsistency. First, regarding the rate of interest, he argues that although new bond issues were being floated at "ordinary" rates (despite the increase in savings) and although short-term money rates were "high" (due to "federal reserve and commercial banking policy"), nevertheless the low dividend yield on stocks proves that there was no shortage of long-term investment money. The "facts show conclusively that the latter was redundant."[26] Second, regarding increased earnings and the demand for capital, he argues that "the fact that *new* capital construction is not pro-

[25] *Fortune*, November 1935, p. 178.

[26] H. G. Moulton, "In Reply", *American Economic Review*, December 1936, p. 619.

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ceeding apace does not mean . . . that the earnings of *existing* corporations are declining; they may even be increasing. It merely means that the profitable rate of expansion of capital is not equal to the supply of funds available for expansion." [27]

It has long been recognized that elements of risk, capitalization of anticipated appreciation, etc., obscure the real rate of interest embodied in dividend yields. Therefore, when Dr. Moulton admits that bonds, which contain less of such elements, did not appreciate, it seems to me that he is admitting without explanation that the rate of interest was not affected by the alleged "excess" of savings. Let us recall that he suggests that savers who could not find new securities to buy could either hoard or buy securities already outstanding. Why did they not buy outstanding high-yield bonds in preference to low-yield stocks, if the latter were not being bought for possible appreciation (and similar interest-obscuring factors)?

If we admit Dr. Moulton's contention that the rate of interest was falling, does this not make his second point—that savings were increasing more rapidly than they could be used—even more difficult to understand? For he must then argue that despite a lowered cost of capital, entrepreneurs were unable to invest fast enough to keep up with the "supply of funds available for expansion", so that the profits on existing capital rose in spite of everything that competition between entrepreneurs could do to bring them down by causing more new plant and equipment to be built. How, specifically, can Dr. Moulton reconcile his contention that consumption demand was increasingly inadequate before 1929 (as measured by the increasing "dissipation" of savings) with his admission that the same "inadequate" demand was large enough to cause increasing profits despite the most rapid possible increase of productive capacity? Is not the only escape from this untenable position to admit that the interest rate rose (partly, at least, in response to increased profits) and that savings were not "excessive"?

[27] *Ibid.*, p. 620.

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THE FEDERALISM OF KARL MARLO AND KONSTANTIN FRANTZ

EITHER the regulation of vocational classes or a dictatorship—that was the alternative which the German petty bourgeoisie, particularly the artisans, faced in 1848. The revolutionary movements offered them the possibility of a larger political influence through representation; but it seemed to them rather dubious whether the increased political rights of the citizen meant a real gain. On the contrary, in these "liberties" they found only the victory of the liberal upper bourgeoisie. In their opinion, the dictatorship of the unlimited power of the sovereign was being replaced by the rule of a plutocracy which, completely independent of the kingship, possessed a significant political stronghold in the "people's" representatives and had realized most of its economic demands through the freedom of trade granted in Prussia in 1845. Such concessions to the liberal manufacturers did not satisfy the artisans. Their work was especially in need of protection from industrial competition. It was not hostility to democracy, but desire for social protection which inspired their demand for a regulatory board to care for the particular vocational needs of the various classes.[1] Mere representation of the various vocational interests, however, would not suffice; an economic transformation was needed; a social order based on vocational distinctions called for the change of society at large, not merely for the promotion and maintenance of individual vocations, but for a reorganization of the Fatherland which, composed of mutually contending states, was struggling for its very existence.

In this struggle economic questions played a prominent part. Internal political decisions influenced foreign political de-

[1] Karl Marlo, *Verhandlungen der ersten Abgeordneten-Versammlung des norddeutschen Handwerker- und Gewerbestandes zu Hamburg* (Hamburg, 1848), pp. 22-23.

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cisions, and vice versa. The liberal view demanded large economic areas, in which the individual might operate without the impediment of legal restrictions. In order to promote production, it demanded the abolition of the customs barriers between German territories. The Prussian customs league, in particular, united the various domains into a single customs district, with the result that outwardly Prussia's position in Germany was strengthened and national liberalism was promoted in Germany proper (*Kleindeutschland*). While Prussia favored liberalism in the economic field, conservative tendencies predominated in the economic life of Austria; these found their principal support in the Austrian petty bourgeoisie, and, until quite recently, had lost none of their power. (The collapse of these tendencies in the last two decades is recorded in the works of Othmar Spann.) Over against Prussia, which under the control of the liberals was endeavoring to bring the German states under its suzerainty, stood Austria, a state with many nationalities, careful not to become too deeply entangled in Germany. For Germany represented only one of the foundations of the power of the Austrian emperor; its basis also included non-German nationalities. Nevertheless, Austria could not tolerate a power in Germany, which, as was true of Prussia, was striving for a strong centralized authority designed to exclude Austrian influence. Austria wanted to promote a federation of German states; but, like Prussia, it did not intend to build up one unitarily governed and administered German state.

As the Prussian solution was particularly furthered by the liberals, and as Prussia had complete freedom of trade, all forces that were antiliberal were directed against Prussia. They were of the opinion that the introduction of freedom of trade had favored the promotion of factories and injured the artisans. Abandonment, or at least curtailment, of freedom of trade was demanded. Great emphasis was placed upon the fact that society is a federation of heterogeneous associations. These associations should constitute the members of the state. This movement, which particularly stirred the German middle classes, the German trades, had its intellectual foundation in

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the federalists. Although federalism connotes above all a movement which looks toward the formation of federations, a union of states, the term seems fittingly to characterize the intellectual attitude of the two political theorists to whom we now turn; the more, as they did not restrict their federalism politically to foreign goals, but found it in internal politics.

MARLO AND FRANTZ

Notwithstanding the difference of method in the development of their doctrines, both Karl Marlo and Konstantin Frantz [2] based their federalism on the same group of ideas. Although their point of departure, namely, that associations are the foundation of social life, was not particularly original, nevertheless, their peculiar conservative development of this idea is noteworthy. Associations may be voluntary unions, independent of the state and accessible to everybody; but they may also be restricted to definite groups, for example, to the vocations, and organized with the coöperation of the state to perform definite tasks for the community. Characteristic of the federalism of Marlo and Frantz is their assignment to the state of a regulative and advisory function, which must be directed by a Christian spirit. This differentiates them from the representatives of the liberal concept of associations. They represent the alliance which the petty bourgeoisie formed with conservatism. This union was so intimate, that in the works of Marlo, a spokesman for the lower middle class, and in the works of the neo-conservative Frantz, not only are views of one group related and assimilated to the views of the other group, but middle-class democratic and conservative-authoritarian ideas interpenetrate completely. That this vital union was not artificial may be seen in the fact that Frantz, the younger of our two authors, arrived at his basic thoughts on federalism without any knowledge of Marlo's works. Yet Frantz is in complete accord with Marlo's criticism of national-liberal plutocracy [3] and with his federalism.

[2] Karl Marlo (Karl Georg Winkelblech), 1810-1865; Konstantin Frantz, 1817-1891.

[3] Frantz, *Der Untergang der alten Parteien und die Parteien der Zukunft* (Berlin, 1878), pp. 29, 30, 60, 139.

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To be sure, there are differences between Marlo and Frantz. These differences, however, are not grounded in the theory of federalism but in the method of its presentation. Although both belonged to the intelligentsia of the bourgeoisie, there was a marked disparity in their social activity. Marlo, in the decade before the revolutions of 1848, was professor of chemistry at the Technological Institute (*Höhere Gewerbeschule*) of Cassel and occupied himself in his free time with social and economic questions. In 1848 he was the candidate of the democrats for Paul's Church, but was not elected. His most significant work was done at the congresses of artisans and tradesmen (*Handwerker- und Gewerbekongresse*) at Hamburg and Frankfurt. Above all, Marlo was the spokesman of the artisans. His scientific work *Untersuchungen über die Organisation der Arbeit oder System der Weltökonomie*, which appeared after the revolution, affords a deep insight into the thoughts that determined his activity in the interest of the artisans. As they were unable to realize their demands, Marlo withdrew from public life and was soon forgotten.

In contrast to the brief public activity of Marlo was the prolonged endeavor of Frantz, for forty years after the middle of the last century, to win public approval. His first appointment by the state was as literary reviewer in the Prussian ministry headed by Eichhorn (1844), and he remained a publicist, although he would have preferred a political to a journalistic career. Bismarck esteemed Frantz and would gladly have had him as a coworker; but in opposition to Bismarck's advocacy of a lesser Germany, Frantz advocated a greater Germany, and so there was no adequate political career open to him in Prussia-Germany. Furthermore, the *Kulturkampf* widened the breach between this son of an evangelical pastor and the chancellor.

Inasmuch as Marlo and Frantz represent federalism in different fields, their investigations can most advantageously complement each other. The democratic attitude of the artisans and the conservative attitude of the old nobility are blended. The blending agency is hatred of liberalism. The removal of the dictatorship of plutocracy is the central prob-

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lem in the works of both writers. In opposing the moneyed nobility Marlo and Frantz were wholly in line with the contemporary demand for social reform. At that time, however, the abolition of private property and the introduction of communism were being suggested as possibilities for the betterment of social conditions. Neither of them considered the abolition of private property a worthy goal. For them there were other roads than communism to social reform.

NON-FEDERALISTIC PROPOSALS FOR SOCIAL REFORM

Liberalism had been presented by its supporters as a way to the betterment of social conditions through the promotion of the interests of private property, but it did not fulfil that promise; it effected no change in existing social conditions. It was interested only in the establishment of legal equality, and it left existing property arrangements untouched. Substantiation of the claim that liberalism had not effected a betterment of social conditions constitutes a major part of our authors' consideration of the need of a state-promoted social reform. Next, they examine the propositions of other groups, socialists and conservatives, and, finally, they offer federalism to resolve the economic anarchy resulting from liberalism.

1. *Liberalism*

Our authors' criticism of liberalism concerns its lack of appreciation of social and historical realities. For their condemnation of liberalism it is immaterial whether its shipwreck is ascribable to faulty methods of achieving its ultimate goals or to the goals themselves. In reality—and this is a presupposition of their critique — liberalism succeeded in realizing what it intended to do. Only because it veiled its purpose have the well-intentioned followed its ways. Our point of departure is the thesis that the ideals of liberalism satisfy neither Christian demands nor the Christian conscience. Christianity wants justice for everyone, and on that basis the restoration of peace in human society. Hence, it is a Christian duty to grant to everyone what belongs to him, and to make it possible for him to maintain and care for his property. This applies to individuals, to classes and to nations.

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Christianity must take issue with all groups that endanger the peace of the community by promoting a greater measure of freedom than is conducive to harmony among men. One of the defects of liberalism is its demand for an excessive measure of individual freedom; for in it lies the danger of lasting discord among individuals, groups and nations. Anarchy in every sphere of social life, leading ultimately to the downfall of society, is the inevitable consequence. Liberalism — in the opinion of the federalists — cannot benefit any stratum of the population. The workers (so runs their argument) become proletarianized by liberalism; the liberal-minded industrialists favor a large increase of the population to compel the workers, through an excessive labor supply, to accept low wages. The state-supporting middle class, like the nobility, loses its influence by the liberal system of election, which is based on the amount of taxes paid. The "liberal" principle of sovereignty of the people—according to the federalists—results in constant struggle between the legislator, the people and the king. The people's representatives therefore take more interest in fighting for power than in objective discussions of economic questions. But even if the conflict between the government and popular representation should be favorable for the latter, freedom of the people would not be realized, since it might be possible to abolish such important things as property rights or marriage or religion. The independent rights of communities might be taken over by the central state machine. "If people are to be really free, they must above all things have the right to regulate and manage their domestic affairs. *For the most part real popular freedom rests less in legislation than on administration.*" [4]

Arguments from the field of foreign affairs strengthened the federalistic condemnation of liberalism. "Liberal" popular sovereignty results in state socialism. The state becomes one large, unitary economic body. Competition increases. Not only economic, but political means are available. State

[4] Frantz, *Der Föderalismus als das leitende Prinzip für die soziale, staatliche und internationale Organisation, unter besonderer Bezugnahme auf Deutschland* (Mainz, 1879), p. 129.

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socialism, furthered by this liberalism, leads not to the brotherhood of nations, but to mutual hatred and nationalism.[5] For the governments based on popular sovereignty—argue the federalists—have at their disposal much greater power than the absolute princes. One should not be astonished at such plenary power; since liberalism leads to anarchy, it must culminate in a coercive régime. What gives socialism, from the point of view of the federalists, some advantage over liberalism is the fact that socialism has the will to master chaos by strengthening the power of the government and by instituting far-reaching social measures, and does not, as does liberalism, depend solely upon the army to assert its control.

2. *Socialism*

Both Marlo and Frantz are in sympathy with socialism since it is antiliberalism; in the same way socialistic circles, in preference to liberalism of the plutocratic type, chose the absolutism of princes who did not permit unrestricted competition.[6] According to the federalists, Christianity is more social, and hence more socialistic, than atheistic socialism; for it wants to promote socialism, namely, peaceful mutual relations between peoples, ideally and not merely materially.[7] The realization of this goal is possible only through Christianity, which not only teaches the original unity of mankind, but also sets as an ultimate goal the future reunion of nationally disrupted mankind. Socialists, it is true, are also striving for this real communion; but they are concerned only with the betterment of conditions for the laboring classes, and overlook the middle class entirely, which is in like need. If they had sought the support of the middle class and had won it as an ally against liberalism, the demands of 1848, for which they struggled in vain, would have been gained for a long time. The moneyed nobility was helped by the dissension between

[5] Frantz, *Die Weltpolitik* (Chemnitz, 1882), Part 3, p. 63.

[6] See G. Adler in his *Die Geschichte der ersten sozialpolitischen Arbeiterbewegung in Deutschland* (Breslau, 1885), p. 8, concerning the socialism of Georg Büchner.

[7] Frantz, *Der Föderalismus*, p. 374.

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the middle class and the laboring class. Fearing the consequences of a realization of its earlier constitutional demands, the liberalism of western Europe made common cause with Russian conservatism in order to subjugate the people.

For the fight against this liberalism the laboring class is sorely in need of the middle class, not only to augment numbers, but also for intellectual leadership.[8] The leadership by the educated middle class is necessary because it is, in the field of factual knowledge, superior to the masses and is able to understand the errors of several socialistic demands. Like liberalism, socialism demands centralized government and administration for all nations; it presupposes extreme coercion of the individual members of the state. Such coercion can be exercised only within the confines of a state which constitutes a real unity. The earth cannot be administered from a central place according to a common order because of the great racial and cultural differences among peoples, and because of the great differences in the physical constitution of various countries.[9]

The coercion exercised by socialism is not in harmony with the European sense of freedom; in Russia alone, which is accustomed to autocratic rulers, socialism does not need to reckon with opposition to restraint. There the low productivity of the socialistic régime would not be serious, because of the abundance of natural resources.[10]

But even if socialism is a possible system of economy for Russia, the Occident must beware of its introduction; for the state cannot deprive its members of all freedom and opportunity for expansion.

Liberalism's hostility to socialism is justified. But the liberal cannot be used in the struggle against socialism and communism. He is a pacifist, though he use force for the realization of liberalism in many countries; he is afraid of an armed people, lest communism later use these arms against him. Therefore, he is dependent upon the willingness of the

[8] Frantz, *Die soziale Steuerreform* (Mainz, 1881), p. 115.

[9] Frantz, *Weltpolitik*, Part 3, p. 62.

[10] Marlo, *Untersuchungen über die Organisation der Arbeit* (2nd ed. Kassel, 1885), vol. I, p. 401.

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military forces to protect moneyed aristocracy; and the army demands power and new taxes.[11] Since liberalism, however, only reluctantly grants these to the army, and resists social reform measures, it cannot endure the fight against socialism.

3. *Conservatism*

The total authority of the state, then, is needed to withstand the dangers of socialism. As liberalism is no guarantee of a powerful state, the government must depend on the conservatives, the groups that are loyal to the state; but conservatism, according to the opinion of the federalists, is not very significant as a political power; it is thoroughly dominated by liberalism. This, Marlo thinks, is demonstrated by the Frankfurt Assembly. The most important social-political resolutions of the Assembly were discredited by the liberals for fear of social revolution; and in this they were aided by the conservatives. Another factor which contributed to the success of the liberals was the hostility of the conservatives toward the Frankfurt constitution. The conservative king of Prussia was compelled, in the opinion of Marlo, to fulfil the economic wishes of the liberals; but since their goal—a centrally governed *Deutsches Reich*—could have been realized only at the cost of a war with Austria, the truly national demand for a greater Germany, stretching to the Mediterranean, was sacrificed.[12]

Like Marlo, Frantz, though viewing the decade of the sixties and not that of the forties, insists that conservatism capitulated to liberalism. Instead of guarding the values handed down by the past, conservatism yielded to the demands of traditionless liberalism and supported a policy of force that did not respect Christian principles. Thus Frantz disapproves of the dethronement of German princes by Prussia (1866) under the leadership of the conservative Bismarck, and in general of the handling of the German question. Any success that rests solely upon force and not upon intellectual superiority is questionable. "What today may seem to be a success,

[11] Marlo, *Organisation der Arbeit*, vol. I, pp. 291-92; Frantz, *Der Föderalismus*, p. 137.

[12] Marlo, *Organisation der Arbeit*, vol. I, p. 406.

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may tomorrow lead to results which reveal the futility of the seeming success." [13]

By promoting the purposes of the liberals, conservatism increased the danger of the overthrow of society, particularly by its behavior toward the princes in 1866. The incorporation of formerly independent principalities into the Prussian state strengthened the centralization of society and encouraged social revolution, whereas the working out of existing decentralization would have guarded the old historic rights and tended to temper the social struggle.[14] Instead of practical action, conservatism offered only demands for the restoration of medieval conditions; but the Middle Ages do not constitute a pattern for social reconstruction. According to the federalists, that period was marked by conflicting privileges. Furthermore, modern means of transportation have considerably increased the field of commerce and industry so that there are no longer small economic districts that can be covered by legislation.[15] The demand for a revival of medieval regulations rested upon a false conception of life of the Middle Ages, which were not predominantly Christian, but pagan.[16] Although conservatism prided itself on its Christianity, it really had nothing in common with Christian teaching. Christianity is not a religion that defends privilege and class prerogative; it knows nothing of vassalage.[17] Hence it cannot divinely sanction either classes or governments or states.[18]

From the point of view of the federalists, differences of rank are unavoidable; but Christianity demands the mitigation of these differences and the creation of a fraternal relationship among the various classes. "Objectively this calls for a social reform which, proceeding from the various vocations, strives to secure to every vocational class its existence, its rights, and

[13] Frantz, *Die Religion des Nationalliberalismus* (Leipzig, 1872), p. 228.

[14] *Ibid.*, p. 231.

[15] Marlo, *Organisation der Arbeit*, vol. I, p. 218.

[16] *Ibid.*, p. 411.

[17] Frantz, *Der Föderalismus*, p. 206.

[18] Frantz, *Der Untergang der alten Parteien und die Parteien der Zukunft*, p. 162.

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its honor, as the only equality in this world."[19] The state must devote itself to the setting up of such an organization of labor on the basis of various vocations by guaranteeing the freedom of the laborers through securing for them gainful occupations adequate to their powers.[20] It must become the guardian of the oppressed masses and must limit the power of the moneyed nobility. In that way revolution will be avoided, and peace in society will be preserved. Frantz thinks the best guarantee for the realization of this is given in a social monarchy built up on the principles of federalism. In such a monarchy conservatism again has a worthy goal.

FEDERALISM

1. *The Church*

Federalism is a practical political system which is to incorporate liberalism, socialism and conservatism and supersede them. It is to give to the individual the greatest measure of liberty compatible with the interests of the community. However, the coercion demanded by the common welfare must not lead to the destruction of personal liberty and personal property. To everyone must be conceded that which belongs to him, and evolution is the way to this goal. By its authority the government must try to win the people for the federalistic policy and defend it against political factions.

Federalism's point of departure is Christian man as member of the vocational classes; it is neither the state nor the nation. For neither the state nor the nation represents the true community; rather the true community is composed of Christians who live in families and belong to various classes. The state is only a historical entity compared with man, who is immediately related to the eternal.[21] Because of the preëminence of religion, its organized representation, the church, is above the state in matters of intellectual training. Frantz concedes a great task to the Catholic Church, in particular, which has

[19] *Ibid.*, p. 170.

[20] Marlo-Winkelblech, *Verhandlungen der ersten Abgeordneten-Versammlung des norddeutschen Handwerker- und Gewerbestandes zu Hamburg*, pp. 22-23.

[21] Frantz, *Der Untergang der alten Parteien*, p. 148.

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preserved the thought of the universality of Christianity in greater measure than has Protestantism. It shall curb the tendency of the modern state to express itself in militarism and in assistance to plutocracy.[22] The Catholic Church also represents the principle of the Spirit against the dynasty, which rests on descent, blood and station, and keeps a close relationship with the army. In contrast to the opinion of many Protestants, the church's healthy development is not conditioned by the national state but by the church itself; and a German is not something higher than a Christian.[23]

For Frantz the significance of Christianity, and therefore the basic idea of federalism, is the establishment of international, national and social peace, which will bring contentment to all. Such a peace is more important than any form or system of government. The church may promote this peace by a Christian federation of nations.[24] Nationally, through federation, it is to care for the peace of the confessions, Catholic and Protestant, and to advocate the idea of a great united German Christian state. For the basis of a union of European nations, "politically and ecclesiastically and hence the foster-country of universal culture, should be Germany." [25]

Socially, the church is to undertake a task similar to that of the kingship, namely, to aid the poor, for it owes an essential part of its power to the poorer and less cultured strata of society. The middle strata, particularly the cultured middle class, are much too indifferent to the church.[26] As the church knows, more than any other institution, how to curb man's selfishness and promote altruism, the church must be juridically independent and able to coöperate in public affairs. Christianity must be promoted by the state; for, since the state leans upon Christianity, the maintenance and extension of Christian principles must be one of its purposes.[27] To be sure, the church, which has lost much of its medieval power, must re-

[22] Frantz, *Weltpolitik*, Part 3, p. 179.

[23] *Die Religion des Nationalliberalismus*, p. 61.

[24] *Der Untergang der alten Parteien*, p. 182.

[25] *Die Religion des Nationalliberalismus*, p. 251.

[26] *Ibid.*, p. 138.

[27] Frantz, *Weltpolitik*, Part 3, p. 206.

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spect the state's sphere of activity; for the domain of the church is intellectual leadership, not the exercise of worldly power among peoples. The church is to Christianize and re-Christianize. In doing this, it is not to employ worldly power so much, but rather the power of persuasion, respecting the individual's freedom of conscience. Truth will prevail without coercive means; witness the history of Christianity. By resort to coercion the church would degenerate. The only protection against this danger is the state. Hence, it is the necessary corrective for the church and for society.

2. *The State*

Although the state represents an effective counterbalance to the church, the relation of church to state being that of law-giver to government,[28] yet the state is not an equal partner of the church, but of lesser dignity. For society has its inception neither in the state nor in the individual; rather social development begins with the family.[29] According to Frantz, the strength of the state does not proceed from legislation, but from the power of the government. When there is a lack of moral inhibition, when the mind demanded by the Christian religion has not been realized in the nations, an excessive nationalism and centralism in government are the consequences. This centralism is decisively anti-Christian, for, instead of peace, it causes perpetual unrest among the nations. It makes impossible the federation of nations directed by a Christian spirit.

Neither divine revelation nor secular history, wrote Frantz, proves the peculiar necessity for various nations to strengthen their national pride. On the contrary, the present nationalities are not something primordial; they are products of a long historical process. Yet they are comparatively more enduring than states, since forms and institutions of government frequently change. Because of its richer tradition and its greater vital content, the nation is more important than the state, as

[28] Although Frantz detests liberal constructions and is willing to concede to the powers of the state far-reaching privileges as over against parliament, his relationship of state and church reminds one of the liberal scheme, in which the government appears as the executive of the legislative.

[29] Frantz, *Die Naturlehre des Staates* (Heidelberg and Leipzig, 1870), p. 284.

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the present can take form only on the basis of the past, and a revolution which employs only the coercive means of the state must sooner or later fail. Hence only those forces are truly preservative of the state, which have their roots in the past and which continuously guard the family, the origin of the state. It is the forces of the national hereditary kingship that guarantee the continuation of society. Hereditary kingship is preferable to a republican form of government, in that it "confirms and strengthens the dignity of the family as the primal source of all social development; in a kingship the entire state-society is in a certain sense united as one family." [30] The king, solicitous as father of the people about the welfare of those entrusted to his care, gives special attention to the lower strata. As representative of the state, he must aid the poorer classes, not only by administering justice but also through economic measures. Furthermore he has to prevent any illegal acquisition of riches through the exploitation of men. The state must adopt measures to protect honest productive labor particularly against stock-exchange capital. The stronger the conviction that a social policy is necessary, the sooner will the danger of a social revolution on the part of the ignorant masses be removed; the sooner social justice will be established, the sooner peace will be realized for all.

3. *Society and Popular Representation*

The state can direct society in a Christian spirit only by having sufficient power at its disposal. Police power does not suffice; far-reaching authority is necessary. There must be complete state control over legislation and administration. Popular participation in government should be restricted, as is the franchise on which representation is based.

According to the federalists, the franchise is unnecessary in monarchies because of the independent power of the crown. In democracies in spite of equal franchise, social as well as economic inequalities exist. This inequality produces uncertain political conditions and begets a Caesaristic government.[31]

[30] Frantz, *Der Föderalismus*, p. 149.

[31] Frantz, *Naturlehre des Staates*, p. 299.

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To mitigate the dangers of universal franchise, the exercise of voting must be conditioned upon the fulfilment of definite duties. Whoever demands influence through popular representation must be held responsible for the payment of taxes.[32]

Since civil duties consist essentially in the payment of taxes, the representatives of the people should have the right to allow taxes to the government; but they should not participate in legislation which requires a greater measure of insight. Instead of limiting the legislative power of the crown, its governing power should rather be circumscribed by granting the citizens of every community an extension of communal freedom in their own affairs.[33] As the more important affairs of the state are administered only by the crown, or by persons chosen specifically for that purpose, the principle of rank in society is guarded. This principle of rank appears in non-monarchical states also as the constructive law of society, since strict democratic equality would require that all citizens have not only equal rights, but equal power. The more such a demand for equality prevails in democracies, the less the opportunity of elements fit for governing the state; or, if they appear, they oppose the democratic idea of equality. Hence, according to Frantz, it is a striking fact that the statesmen of the United States have for the most part come from the slave states in which the spirit of aristocracy prevails.[34] The acceptance of the antidemocratic, hierarchical principle in society is seen not only in democratic America, but also in parliamentarian England, which is considered the model of constitutional states. The English parliament is capable of governing, because it "forms a compact body; and it forms a compact body because it comes from the closed ranks of aristocracy."[35]

Germany should make use of this hierarchical principle through vocational representation. The strata should advise the government, the whole people should participate only in the appointment of officials.[36] According to Frantz, it would

[32] *Ibid.*, p. 294. In these demands Frantz throughout assists plutocratic ideas.

[33] Frantz, *Vorschule zur Physiologie der Staaten* (Berlin, 1857), p. 248.

[34] *Ibid.*, p. 251.

[35] *Ibid.*, p. 215.

[36] Marlo, *Organisation der Arbeit*, vol. I, p. 316.

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be difficult to have elections based on the various vocations, because the existing vocational associations lack effectiveness. Yet it remains possible to secure influence for the vocations by creating a second chamber in addition to parliament.[37] Even though vocational representation does not take the place of general representation of the people, and is only its board of control, yet through the development of the universal franchise, conservative principles can be brought into prominence; the highest forms of popular representation do not result from general elections but are delegated by lower bodies, thus making it possible for tested forces to be in control. *Urwahlen*[38] would be held only for the board of aldermen (*Gemeinderat*) and the *Kreistag*,[39] but not for the *Landtag*,[40] and certainly not for the *Reichstag*.[41] For the *Reichstag* the representation would have to come from the *Kreistage* and the *Landtage*. No one should be eligible for the *Kreistag* who had not already held a seat in the *Gemeinderat*.[42]

This electoral procedure is designed to secure the rights and independence of the individual communities. Their legal duties and privileges, however, are more narrowly circumscribed than those of the higher state bodies, since the particular, i. e., the specific, group cannot compare with the general, i. e., the state, and must be subject to it, whatever freedom may have been delegated. Nevertheless, the general permits the particular to continue in its uniqueness and adjusts tensions between heterogeneous groups; the greater authority of the state eliminates the danger that minorities will ever be oppressed by the majority.[43] Then, too, the special consideration given the vocations parallel to and within the popular representation would contribute much toward satisfying the

[37] Frantz, *Der Föderalismus*, p. 126.

[38] First elections, in which are chosen those who are to participate in public elections.

[39] Meeting of the delegated representatives of a political district.

[40] Meeting of the representatives of a principality.

[41] The imperial diet.

[42] Frantz, *Der Föderalismus*, p. 130.

[43] Marlo, *Organisation der Arbeit*, vol. I, p. 208.

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social interests and lead to harmony among the vocations.[44] Disadvantages attending this form of government are not to be expected. The advantages of other governmental systems, especially of constitutionalism, are only apparent, for the direct representation of the people, advocated by liberalism, does not really exist. No one can transfer his own will to another. The one delegated has a will of his own; and even though he keeps absolutely to his commission, he will not be representing the people, but the part that elected him, by the exercise of an equal universal franchise; and his supporters may have been prompted by a multitude of varying motives rather than by a definite communal interest. Hence, lacking a vocational or tribal interest, the representative of the people may often help to pass unwarranted resolutions; the more, if he does not reside within the electoral district in which he was chosen, and consequently does not have intimate knowledge of conditions there, or if he is an official in the service of the state and, as such, exercises self-delegated power.[45]

According to the federalists, the decisions of the representatives made possible by the liberal system are of little real value; the value is less, since action is almost never unanimous, and not all of those whose weal or woe is affected by the decisions participate in the vote.

4. *Society and Economy*

In contradistinction to the liberal system, in which the state is essentially a constitutional one (*Rechtsstaat*), the federalistic system, filled with the spirit of tradition, has proved by its attention to the old vocational classes that it has an appreciation not only of questions of right, but also of economic need. It is the duty of government to aid the suffering strata of society, and the strengthening of its authority means increasing the possibility of state intervention. The goal of state intervention is the maintenance of social class distinctions and the removal of new class formations that threaten to disrupt the social order. The state has the task of removing the

[44] Frantz, *Der Föderalismus*, p. 125. [45] *Ibid.*, pp. 116-117.

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moneyed nobility and the wage proletariat. The acquisitiveness of plutocracy must be curbed, so that it does not crush the middle class. That is possible, if a definite limit is fixed for all forms of business, and if capital is placed under restrictions. The preservation of the middle class can also be attained by removing a main cause of the prosperity of plutocracy and of the distress of the middle class, namely, the scantily rewarded wage-earners. This should be done gradually through political measures designed to regulate population. Then the middle class, which is struggling for its sustenance, can no longer be trodden under foot in competition with the plutocratic manufacturer who exploits the wholly dependent laborer. Then, too, unemployment, which is a result of free competition, need no longer be feared.[46]

Industry must be controlled, so that there may not be a sudden liberation of the working forces. The guild-associations shall exercise this control under the supervision of the state. To be sure, the activity of the guilds and associations is restricted by the assumption that no economic department shall be excluded. There can, of course, be no thought of an immediate economic transformation through a state-promoted reorganization. As far as possible the evils that grow out of existing conditions must be removed gradually through special legislation, such as the appointing of factory inspectors, the enactment of an employer's liability law, the restriction of woman and child labor and the establishment of a normal workday for the principal branches of industry. All this, however, will effect little change in the matter of paramount importance — the domination of capital. For capitalism has developed from middle-class economy, in spite of many restrictions, and is able to maintain itself, whereas the small middle-class management has no large means of production at its disposal and is not able to provide for expensive machines to withstand competition. Therefore, according to Frantz, the number of small managements will gradually decrease, and the artisans seem fated to sink to the level of the factory laborer.[47]

[46] Marlo, *Organisation der Arbeit*, vol. I, p. 54.

[47] Frantz, *Die soziale Steuerreform*, p. 43.

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PROPOSALS FOR FEDERALISTIC REFORM

According to the federalists, all reformers of economic life have to consider eternal laws in correspondence with which society has developed. Private property must be counted among these conditions. Collective property, even of associations, cannot be the goal of an ideal economy, especially if the proceeds are to be distributed equally without regard to the individual's contribution. Producers' associations, the members of which are both owners of and laborers in the association, and which are built on the principle of the equal distribution of the proceeds, complete the rift between the non-propertied laboring class and the propertied enterpriser.[48] They promote the idea that private property is robbery. But, according to Frantz, occupation of an unclaimed territory is not robbery, especially since it will be cultivated.

It is Frantz's theory that capital did not develop and prosper from exploitation of employed labor but originated in the fact that "human capacity for work is able to produce more than it must consume for its own reproduction. Consequently diligence and thrift create a surplus, which, if intelligently handled, can be used for the improvement of production; thus production continually increases."[49] An artisan, who is frugal and does not employ helpers, can acquire a certain affluence and thereby show that the building up of capital does not necessarily rest on exploitation, although in its very nature capital furnishes the possibility of exploiting others.[50] The way in which capital is used in economy is a measure of its corresponding ethical and productive value. The exploitation of the natural resources of a country and the exploitation of laborers are two different sources for amassing capital. Since the exploitation of the workers cannot be either morally or economically justified, exploitation of the natural resources is the only real source of the riches of a country.

[48] Frantz, *Der Untergang der alten Parteien*, p. 101.

[49] Frantz, *Der Föderalismus*, p. 31.

[50] *Ibid.*, p. 32.

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For a continental power like Germany, which cannot rely upon colonies,[51] the cultivation of unused arable land is of vital importance, for the rural population is always the bearer of culture and the friend of Christian peace. Increasing the rural population, and making it secure through inner colonization and soil development, means at the same time the promotion of home industry, the home market. That agriculture may fulfil this task, every tiller of the soil should own the land he cultivates, be able to subsist on it, and enjoy the fruits of his labor free from the evil results of changing market prices. To that end overproduction must be avoided, and a uniform supply of agricultural products must be provided for the markets. The farmers or gardeners should be obliged to market only an average yield of foodstuffs.[52] After agriculture, industry should be the concern of the state. Industrialists are interested in a protective tariff, as an aid in competition with foreign producers, and are desirous of having the support of agriculture. A protective tariff, however, is no more a social remedy than is free trade or free competition. The higher the protective tariff, the more agriculture pays for the products of industry which it needs.[53] A transfer of interest to the home market can benefit industry more than protective tariffs, which are designed to promote its later export facilities; for then the danger of overproduction would be avoided, and, because of uniformity in industrial business, the existence of industrial laborers would be made secure. Then, too, the introduction of protective tariffs provokes like measures in other countries, and these will create new difficulties for industry and increase the tension among peoples.[54] Hence, every tariff on foreign goods really imposes a tax on the home product. A rational removal of the protective duties presupposes the

[51] Frantz's *Der Föderalismus* appeared in 1879, before the beginning of Germany's active colonial policy.

[52] Marlo, *Organisation der Arbeit*, vol. IV, p. 309.

[53] Frantz, *Der Föderalismus*, p. 86.

[54] *Cf.* Frantz, *Weltpolitik*, Part I, p. 135.

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organization of economic activity in the various states, with definite restrictions on the size of business establishments.[55]

For the realization of this new economic order, it is important that the rate of population increase and the conditions of labor be regulated by the state. A satisfactory federal labor law should promote the formation of federations of workers and enterprisers together, for coalitions of laborers against the entrepreneurs are generally ineffective.

Because of the surplus labor supply, the federal labor policy will be primarily concerned with the security of skilled laborers.[56] This can be achieved through a guarantee to unskilled labor, which guarantee shall be combined with a consumption tax and shall be the basis for regulating the price of skilled labor. "The increase in wages obtained in this way, however, is a real increase only in that those who are taxed are forced to a restriction in the means of living, which then would go to the better-paid laborers; and the entire measure necessary for social reform could be carried out only in connection with a proper regulation of the population, and even then not satisfactorily unless combined with other measures that increase the proceeds of labor." [57]

For the regulation of population increase Marlo proposes the requirement of an advanced age for marriage, in order to guard against overpopulation and to secure the highest possible returns from labor. The support of the children must be assured, and it must be shown that there is property for the children (*Kindergut*).[58] The *Kindergut* is designed to lower the birth rate, and to contribute to the removal of the maladjustment between capital and labor.

The establishment of a stable economy requires not only the control of population increase, but also restrictions upon the

[55] Marlo, *Organisation der Arbeit*, vol. III, p. 55.

[56] Without regard to skilled or unskilled labor Marlo proposes as aids to labor the establishment by the state of a labor directory, a labor bureau, for those willing to work who are not employed in private concerns, and also proposes migration to sparsely inhabited territory.

[57] Marlo, *Organisation der Arbeit*, vol. II, p. 330.

[58] *Ibid.*, vol. IV, p. 87.

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freedom of business enterprise. For the accomplishment of this there is a sixfold program. (1) No business may be carried on except under definite conditions. Every entrepreneur must be examined as to his qualifications. (2) Not all kinds of business may be carried on at all times. Employment in individual branches depends upon the age of the one to be employed. (3) Not all branches of business may be carried on at all places. Factories are to be distributed through various inland sections; the majority are to be taken from the cities and placed in villages. (4) Not all branches of business may be carried on in all forms. The form (public or private) is to be prescribed for every branch of business. (5) Each household industry may decide whether it will operate under the guild but all business not carried on in homes shall be subject to guild control. The individual guild is not a municipal, but a national association, a member of a general guild association, and with a constitution adapted to its section. (6) The size of a business shall be regulated, and shall depend upon the number of laborers and the amount of equipment.[59] These proposals, which constitute the major portion of the federal labor law, met with little response from the public.

The Meaning of Federalism

The federalists, both Marlo, the advocate of the federal labor law, and Frantz, the social reformer, failed to achieve their objectives, yet they were not wholly at enmity with the age in which they lived. Both admired the accomplishments of technology. But Frantz, who saw in big business the principal promoter of technics, found it exceedingly difficult to decide between a technical advance, made possible by big business, and a moderate development of business through the retention of small tradesmen. Indecision characterized his federalism. In the endeavor to harmonize social opposites, Marlo, too, was not free from compromises with liberalism. Like Frantz, he struggled with the problem of popular sovereignty. He saw the faults of the aristocracy, but he saw also the faults

[59] Marlo, *Organisation der Arbeit*, vol. IV, p. 306.

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of *demos*. He favored an aristocratic democracy, the rulers of which would represent a new nobility, serving the people and giving them social peace by removing class contrasts. This aristocratic democracy, however, is not a dictatorship, such as the moneyed nobility demands in all countries. Marlo demanded that plutocratic dictatorship be destroyed through the authority of the state, but without releasing the government from its responsibility to the vocational classes. In the field of economy, not only preservation but also regulation of private property are recommended. Communal property is rejected, although not every form of associative economy is denied.

Practically, the federalists accomplished little in the reformation of economic life, yet their ideas contributed much to the criticism of liberalism. Perhaps the strength of federalism lay in this very criticism, in the fact that liberalism, which advocated freedom from restraints, was denounced as a dictatorship in spite of its opposition to absolutism. But federalism was not alone in this criticism; the socialists, particularly the French socialists (Louis Blanc especially), had a large part in it. If originality cannot be claimed for the federalists, they did try to show the industrial middle class and the nobility their task, and they saved for the period of bourgeois materialism the idea of rank as the idea of vocational classes.

When one considers the attempts in Germany today to transform the whole life of the nation, one is reminded of the federalism of Marlo and Frantz. Many political measures of the government which affect the middle classes (for example, restriction of freedom of business, especially in small enterprises) seem to be in harmony with it, while others, such as promotion of increases in population, are opposed to Marlo's views. More obviously than Germany, Austria before the Anschluss showed her strong connection with the ideas of federalism, for she, as a Christian German state of vocational classes, was the heir to the old hatred of Prussian centralism.

ARNO CARL COUTINHO

NEW YORK CITY

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REVIEWS

The Folklore of Capitalism. By THURMAN W. ARNOLD. New Haven, Yale University Press; London, Humphrey Milford, Oxford University Press, 1937.—vii, 400 pp. $3.00.

This volume reached the reviewer after achieving a fourth printing, so that many functions of the reviewer have already been taken over by vehicles of opinion that react more quickly than professional periodicals. From the cover jacket we learn that the book contains a "symphonic, brilliant, and brand-new political philosophy", which in the course of a hundred years "will be as much revered as we now revere Darwin's '*Origin of Species.*'" With this judgment the reviewer cannot concur. There is no sustained presentation of the author's interpretation of political and economic life, and the inferences we may draw do not point to anything especially novel.

We are told that "Law, morals, and economics are always arrayed against new groups which are struggling to secure a place in an institutional hierarchy of prestige" (p. 4). The attempt of lawyers, moralists and economists to discover rational principles of action is represented as a somewhat hypocritical procedure which obscures and obstructs the real processes of social growth and development. In the rare moments of self-revelation, we learn that the author is an empiricist, with more faith in intuition than in deliberate processes of judgment. "There has never been such a thing as a planned organization of society," he tells us, "even in times when there is the most social planning. Social plans are a symptom, not a cause. Goods are distributed, not through plans, but through habit and ceremony" (p. 83). "Society functions like an ant-hill. If we were compelled to plan each day how to get food into New York city and garbage out of it, we would be lost and the people would starve" (p. 26). In other passages, we learn that statesmen and leaders should be "cheerful, practical technicians dealing with the facts before them," with creeds "which are 'grandly vague' and inspirational enough not to interfere with their techniques" (p. 110). The author quotes with approval the words of Herman Finer, "To be grandly vague is the shortest route to power; for a meaningless noise is that which divides us least" (p. 108).

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In a bright, but devastatingly negative commentary upon men and events we hear a great deal about the inadequacy of the terminology available to describe the activities of corporations in respect of both their legal attributes and economic policy. These chapters, however, add nothing to the well-known works of Noyes, or Berle and Means. The references to economic policy pay no heed to the studies of Chamberlin and Mrs. Robinson on the nature of competition. The constant references to market structure show little awareness of the important implications of the large body of literature on monetary problems which begins with MacLeod and Walter Bagehot. The tendencies now dominant in economic thought recognize frankly the extensive sphere within which adjustments are dependent upon explicit judgments of policy. The economists have advanced far beyond the concepts of the classical school. All this literature discloses full appreciation of the "traps which lie in definitions and in polar words." Those of us who are not familiar with the texts of Hegel and Bergson have picked up these elements of logic from other sources. Some of us in the social science group have also read Pareto, so that discussion of the illogical elements in social life does not seem very fresh or new.

Professor Arnold is not, however, interested in a connected analysis of this irrational world. His real concern is with the sins and wickednesses of the hypocritical and purblind searchers after universal truths, who attempt to impose principles of policy and conduct upon men of action. Happily, he believes, the true men of action have enough native shrewdness not to read the literature of government and economics. "They prefer to hire people to read it for them" (p. 84). The bill of indictment is vivid and interesting, as Professor Arnold's files are well filled with concrete incidents, but a running commentary on selected incidents is hardly more than good fun; a kind of literary Punch and Judy show.

The principles of political dynamics in the concluding chapter are tempting, but there is no space for adequate discussion. Principle number eight is characteristic. "Institutional creeds, such as law, economics, or theology must be false in order to function effectively. This paradoxical statement means that they must express contradictory ideals, and must authoritatively suppress any facts which interfere with those ideals" (pp. 356-357). This observation with its commentary reveals much sound judgment, but the implications would really carry the author farther than he means to go. The passages are representative of the overstatement that persists through-

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out the book. It has long been known that philosophers and economists seldom make good statesmen. It has long been known that consistency can become a vice. These observed facts of social life do not lead to the conclusion that doctrines must be false in order to be useful. The true units of thought and organization are smaller than many presume. The association of these units in systems is loose and imperfect; they have sufficient practical significance to be of value, but they are not the final ends presumed by so many institutionalists. We are prone to attribute more unity to life than is to be found in the phenomena themselves, more unity to thought than really exists. The chapter as a whole contains much sound observation, but there is no new analysis of political dynamics. The groundwork of the text may be found in the writings of Maine, Bryce, Dicey, Merriam and Lowell.

The reviewer was long at a loss to understand the extraordinary vogue of the book. The closing pages afford the needed explanation. "All signs today point to the fact that a new creed, which can reconcile itself to the facts of human organization, is about to be born. It has as yet no formulas. It is represented vaguely by the personality of Roosevelt, who has become a symbol for a political attitude which cannot yet be put into words" (p. 390). The book is an expression of faith. It is not an analysis of present-day conditions, nor even a diagnosis of a malady. It is a repudiation of the economic and political faiths current in the early General Grant period, and an expression of faith in vigorous empirical action.

ABBOTT PAYSON USHER

HARVARD UNIVERSITY

Price and Price Policies. By WALTON HAMILTON and ASSOCIATES. New York and London, McGraw-Hill Book Company, 1938.—xiv, 565 pp. $4.00.

Prices have always been the core of general economic theory. Only now, however, are studies of individual industries being centered upon the explanation of prices and the process of price making. The present volume by Walton Hamilton and a number of associates is a very stimulating and weighty contribution to our knowledge of the workings of industry from this point of view. Walton Hamilton contributes an opening chapter on "Industry" and a closing one on "The Politics of Industry". His associates contribute chapters on Automobiles, Automobile Tires, Gasoline, Cotton Seed, Women's Dresses, Whiskey and Milk.

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The volume is of especial interest because of the attitude of mind it represents. While there is inevitable unevenness in the separate chapters, their intellectual atmosphere harmonizes closely with that of the contributions by Walton Hamilton. Implicitly admitting the necessity for generalization, he condemns the effort to capture a complex process of price making within a single proposition. To make such an attempt is to yield to the always alluring temptation to set down the universal and to confess unwillingness to get down to the concrete. Theories of perfect and imperfect competition "make hypothetical economic phenomena the subject of mathematical exercises" which, though neat and intricate, fail to produce "a picture of the pragmatic reality called industry." The predominant emphasis of this volume is upon the peculiarities of different industries and their organic nature. He and his associates never tire of pointing to the intricacy of industrial organization, the controlling force of habit patterns and distinctive usages, and to the drama in the adjustment of human actors to their economic environment. They reiterate the necessity for looking at industries as going concerns wherein the present is ever evolving out of the past. The scope of reason is thus severely limited. In all these claims there is a serious challenge to the general economic theorist and one that must be met if the general theory of value is to retain any respect. Indeed, the work will have served well if it becomes the irritant about which general theorists succeed in accreting a new pearl of general value theory.

The hunger for realism in all its varied intricacy is, however, out of proportion to the assimilative capacity of the writers. Walton Hamilton admits that it is impossible to "garner fact into significance without an ordered way of the mind" but leaves the underlying method of approach to become explicit in the reading, remarking that "it is one thing to employ a set of hypotheses which defines the character of the method and quite another to formulate patterns into which observed facts are to be cast." There is a perhaps understandable bias in the criticism of the work of others who embark from a different intellectual port. But the method of this study does not in fact become explicit in the reading. The phrase "hypotheses which define the character of the method" is never clarified. The order of treatment reveals no clear method; the subheadings are of a journalistic rather than an analytical character. At bottom the discussion rests on conventional economic categories which are often soundly criticized although rarely abandoned.

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The specialized chapters contain a great deal of useful information concerning the pricing process. There is much stimulating comment flavored with poetical suggestive phrases but a little blurred by a sentiment for archaic expression. The emphasis upon the drama and the color of industry in motion makes for easy reading. But the ultimate impression is merely that the ways of industry are more complex and varied than most of us realize. The writers insist upon patience in generalization. The volume is not presented as a panorama of industry or a complete description of the system at work. It is a mere prologue but it may "tell something of the manner of thing an industry is." Pervading the studies and especially the introductory and concluding chapters is a fear of the explicit. The method must speak for itself. The reader must come to feel for himself what industry is, just as one learns to know a person by continued contact. But in fact what we know of people in large groups we must know by generalization. The writers cannot be criticized for failure to produce a brief and simple generalization encompassing the pricing process throughout all industry. But they do not appear even to be moving in the direction of generalization or in any particular direction.

This lack of direction or of criteria for the appraisal of the concrete reveals itself in more detail in a number of the studies. As Walton Hamilton remarks, time sits weightily upon these pages. The recent event often gains space because of its nearness in time. In the study of the oil industry there is a disproportionate concern with recent supreme court decisions; the intricacies of this crushingly complicated industry are far from adequately discussed. The complaint of the Federal Trade Commission against the Goodyear Rubber Company looms too large in the study of tires. While the influence of the past over the present is explicitly reiterated, there is surprisingly little in the volume to reveal the nature of that influence. Other studies reveal their lack of criteria in other ways. The relative unimportance of cotton seed to the cotton farmer should preclude any discussion of the desolating economic condition of cotton farmers. The study of automobiles devotes valuable space to the sociological implications of the development of the automobile and gets off to a slow start. The studies of dresses and milk are more compact.

Walton Hamilton explains that price is not the real subject of the enquiry; it is merely the "best available symbol through which industry may be approached and its performance assessed." In fact, however, there is little appraisal of the performance of industry,

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partly, no doubt, because the methods and approach of the authors provide no satisfactory criteria for general appraisal. For their valuable collection of data and the invigorating scorn they pour upon doctrinaire approaches to the analysis of prices the writers are to be profoundly thanked. But, if their more realistic studies are to stand up, they must have a skeleton.

ARTHUR ROBERT BURNS

Personal Income Taxation. By HENRY C. SIMONS. Chicago, The University of Chicago Press, 1938.—x, 238 pp. $2.00.

Dr. Simons sets himself the task of formulating a fiscal scheme for the United States which reflects his "proximate conception of the taxation millennium" (p. 220). In his opinion any fiscal plan likely to fulfil such an alluring promise should provide for a miscellany of price levies and but one tax proper. Justifiable price levies are represented by gasoline "taxes", license fees and special assessments. The one tax proper is a federal income tax, fashioned in the image of Dr. Simons' concept of taxable income. Price levies are permissible provided a given social situation facilitates the establishment of a reasonably definite relation between outpayments and services received, unless, of course, established policy contemplates a subsidy to the "beneficiaries" in question. Contrariwise, all such governmentally performed functions whose nature, for reasons of policy or technique, makes cost allocation and subsequent imposition of a price levy inadvisable or practically impossible are to be financed out of the proceeds of a federal income tax, whose yield, in part at least, is to be reallocated among the states of "origin".

Dr. Simons is keenly cognizant that the present federal income tax cannot possibly be expected to carry the load which he wishes to assign to it and which he estimates at approximately eight billion dollars. But even on the assumption that a spectacular increase in the national income would produce the yield contemplated by Dr. Simons, he would nevertheless object to such an extensive exploitation of the income base as defined by present federal statutes, because he feels that our legislative definition of income is objectionable from the point of view of his conception of equity. This dilemma leads him to evaluate possible concepts of taxable income, to outline his view regarding the proper function of income taxation, and to define his conception of equity.

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For Dr. Simons equity in matters fiscal obtains, if similarly circumstanced taxpayers bear substantially similar tax burdens over reasonable time intervals. The upper limit of the significant time interval would seem to be the life of the taxpayer, and a reasonable time interval is apparently to be determined on the basis of whatever pertinent knowledge is available. As regards the function of the income tax which is to usher in the "taxation millennium", Dr. Simons asserts that it must be looked upon as the efficacious instrumentality available to democratic societies "for mitigating inequality" (pp. v, vi). In other words, the test of a good income tax in addition to adequate yield is the efficiency with which it removes the marked positive skew that characterizes the prevailing frequency distribution of personal incomes in the United States.

This clear-cut formulation of the objectives of income taxation represents a unique departure from the approach of most of those who have felt called upon to develop concepts of taxable income. The overwhelming majority of the American, French, German and Italian predecessors of Dr. Simons attempted to get at the "essence" of *the* concept of taxable income by means of philological researches and speculation, interlined with irrelevant doctrinal considerations. They generally finished in utter confusion. With a definitive objective formulated, Dr. Simons can proceed to an intelligible definition of taxable income. For the purpose in hand, he defines taxable income "as the algebraic sum of the individual's consumption expense and accumulation during the accounting period" (p. 206). This definition, it may be observed, is similar, though for certain purposes somewhat more convenient, to the concepts advanced by George Schanz in 1896 and Robert M. Haig in 1921. Unlike Haig and Schanz, however, Dr. Simons attempts at considerable length to determine the taxable income status of specific accruals. He deals rather extensively with service income, income in kind, income from tax-exempt government paper, inheritance, gifts, bequests, and capital gains and losses. All these accruals are to be lumped together, and treated fiscally as taxable income and levied against at "an initial rate of about 20%" (p. 220). The present exemptions, save in the case of married couples, are to be retained.

Given Dr. Simons' objectives, his concept of income may be a possible means of accomplishing his purpose. Though this possibility must be granted, it may be pointed out that other investigators have differed with him concerning the probability that his objective, substantial mitigation of inequality, is likely to be achieved even if

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the recipe is conscientiously followed. To mention but one prominent investigator, Bernstein, the revisionist of Marxian socialism, who reflected upon this problem at length, apparently came to the conclusion that the probable accomplishment could not possibly warrant the necessary effort.

Be that as it may, Dr. Simons' plan suggests numerous questions which should at least be tentatively answered irrespective of one's views regarding the adequacy of his proposal as an instrument of long-range equalitarian policies. By way of presenting but one important problem posed, the question may well be asked whether or not his plan with regard to reallocation of the yield of his income tax, which is to be a federal levy accompanied by the scrapping of state sales taxes, state income taxes and state nuisance levies of all sorts, is likely to bring about less marked equality of income distribution than prevails at present. It will be recalled that Dr. Simons proposes to reallocate part of the proceeds from his tax in accordance with state domicile or residence of the respective taxpayers. That is to say, the share of the yield of the federal tax going to New York and Mississippi would be determined by the collections from the taxpayers in these two states. The median New York income is considerably higher than the median Mississippi income, even if difference in purchasing power and pattern of living are taken into account. If one follows Dr. Simons' lead and repudiates the marginal productivity doctrine as an explanation of actual behavior as well as a moral postulate, one would seem to be compelled to include these territorial differences in average incomes among the "inequalities" that should be mitigated. However, it would seem that Dr. Simons' plan, instead of mitigating, would at least tend to perpetuate these differences. If the validity of the above argument be granted, the reallocation scheme would seem to generate a tendency whose effects are likely to turn out to be polar opposites of the avowed objective of his concept of taxable income. Needless to say, contemporary federal grant policy moves in the opposite direction from that indicated by Dr. Simons' reallocation plan, which must be considered as a necessary and integral part of an income tax scheme as comprehensive as his.

Limitations of space prohibit a discussion of problems of important detail. By way of generalization it may be said, however, that Dr. Simons sometimes falls victim to what may be called "the pathetic fallacy of incomplete projection". He takes a given social situation, changes one factor and then proceeds on the assumption that signifi-

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cant relations between the changed factor and the other factors will remain substantially the same as before. This unrealistic, though common, procedure leads him to give attention to problems which, while significant prior to the change which he introduces, recede into the background or vanish altogether as the change is being introduced. One illustration of this procedure is clearly evident in his discussion of the advisability of granting abatements to a penurious widow whose inheritance, inadequate as it may be, is taxable as personal income under his scheme. It seems hazardous to assume that a society whose mores would permit adoption of the Simons plan would be likely to contemplate abatements to widows. It seems less hazardous to assume that the widows whom Dr. Simons has in mind, like the blind, the dependent mothers and the needy aged, would be covered by one of the social services.

PAUL H. WUELLER

THE PENNSYLVANIA STATE COLLEGE

The Commercial Reciprocity Policy of the United States, 1774-1829. By VERNON G. SETSER. Philadelphia, University of Pennsylvania Press; London, Humphrey Milford, Oxford University Press, 1937.—xi, 305 pp. $3.00.

Begun as a doctoral dissertation at the University of Pennsylvania, this competent study surveys American foreign policy from the specialized viewpoint of a distinctive type of treaty. Within its time limits it seems definitive and final. So richly annotated and documented is it that although the author would doubtless disclaim such pretensions, he has achieved a veritable source book. Nor is this undue flattery, for what is gained for scholarship is at a heavy cost in readability. Again and again, in allusion to some rich personality, the opportunity is resisted or ignored to introduce the human touch. The unity of a cold and rigorous scholarship is preserved. The result is an almost perfect example of what the graduate schools are striving for—history as science. That history is literature could never be imagined from a study of this type. The most exacting requirements of research in diplomacy are further met in that the book is bilateral, not unilateral, the extensive bibliography revealing familiarity with source materials on both sides of the Atlantic, as well as with a comprehensive secondary literature. Again an obvious asset in a definitive study.

The author's point of view may be gleaned from a statement in the introduction that "American commercial policy was, during the

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fifty-four years here discussed, a policy of attack, by force of argument, by example of 'liberality' in commercial regulations, and by retaliation in kind, against the monopolistic and discriminatory commercial policies of European governments." Again, in the conclusion, the author reveals a commendable detachment. He disagrees with American nationalists that "the commercial policy of the United States developed from motives of justice and considerations of fundamental truth." Rather, he maintains that "careful study leaves the impression that the government of the United States has been little less selfish in forwarding the interests of its nationalists than that of any other country." Even of our altruistic or pietistic slogans, he remarks: "If the economists had not already developed the principles of economic liberalism, American statesmen would have been under the necessity of inventing them."

Out of the great factual wealth which the author has assembled, selection is likely to be capricious. The present reviewer was impressed with the defense of John Jay's willingness to enter upon a Spanish treaty frequently interpreted as too indifferent to Western interests. Trade disorganization following the Revolution is emphasized as an incentive for the calling of a Constitutional Convention. Novel to some will be the author's contention that prohibition of export duties in the resulting Constitution imposed a handicap upon various commercial negotiations.

Again selecting somewhat at random from the diplomatic treasures here assembled, nowhere else, in the reviewer's belief, is there a more complete elucidation of why France failed to wrest from Great Britain the prize of her American commerce. This is set forth in a chapter appropriately entitled "Disillusion and Confusion".

The commercial diplomacy of Thomas Jefferson receives its due attention. The author reveals an evolutionary aspect of an attitude and policy which culminated in the Embargo. Equal interest attaches to a study of our commerce with the West Indies and to the diplomacy of John Quincy Adams in relation thereto.

In a work which necessarily emphasizes the economic interpretation of history and therefore of diplomacy, not the least interesting feature is the logical and clever explanation of the manner in which the agricultural states came to favor a protective tariff for manufactures. This complaisance arose from a belief that only through the fostering of a domestic manufacturing interest could a dependable market be achieved for agricultural produce. Commercial ar-

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rangements with foreign nations were altogether too uncertain. The conclusion follows a wealth of factual citation.

Admirably free from bias or any tendency toward special pleading, the author maintains throughout an atmosphere of realism. His study deserves a meritorious place in the literature of American diplomacy. Further studies already promised, carrying the investigation to 1860 or beyond, will be welcomed.

LOUIS MARTIN SEARS.

PURDUE UNIVERSITY

Wholesale Prices in Philadelphia, 1784-1861. By ANNE BEZANSON, ROBERT D. GRAY and MIRIAM HUSSEY. Philadelphia, University of Pennsylvania Press, 1936.—xxiii, 443 pp. $4.00.

This volume is the second in the series inaugurated in 1935 (*Prices in Colonial Pennsylvania* is the title of the first volume) by the staff of the Industrial Research Department of the Wharton School of Finance and Commerce at the University of Pennsylvania. The authors have divided the era from the close of the American Revolution to the Civil War into four main periods, 1784-1808, 1808-1821, 1821-1843 and 1843-1861, finding enough that was distinctly characteristic of each period to justify this division. The method of treatment is statistical. Indices of average monthly and average annual wholesale prices in Philadelphia have been incorporated into the volume, about one fourth of its contents consisting of charts and tables. These indices are based on newspaper quotations supplemented by records from merchant accounts.

The first six chapters are devoted to general aspects of the subject, including general indices, distribution of the major and minor commodities around the average and changes in price stability. The next four chapters deal with wholesale price movements within the four time periods. The last three chapters present the authors' generalizations in terms of the cycles and broad tendencies found in the seventy-seven years covered by the present volume.

The authors have made no attempt to compare Philadelphia prices with those of other market centers in the United States. The amount of labor involved in gathering price data for one locality and in organizing the material is tremendous, and a comprehensive study of prices in the United States will have to be a coöperative work. The influences of purely local factors often caused wide variations from Philadelphia prices current even in communities quite near the Philadelphia market. For example, in August 1823, corn was quoted

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at 43 to 45 cents in Philadelphia—at 48 cents in Easton and at 53 cents in New Brunswick, New Jersey. (*The Fredonian,* New Brunswick, N. J., August 7, 1823.) New Brunswick merchants bought farm produce at prices below the New York city quotations and sold in the New York market; yet they claimed that New Brunswick usually offered higher prices than were given in Philadelphia.

The limitations of the statistical method of treating economic history are most apparent in the field of interpretation. The intricate interrelationships that characterize all history cannot be adequately portrayed by any statistical analysis of price, wages or any other isolated field. In justice to the authors of this study it should be stated that they do not try to present the history of wholesale prices in Philadelphia in terms of the whole complex and evolving economic scene. Nevertheless they do give some explanations for seasonal and cyclic changes in prices and these are not always convincing or adequate. For example, they say (p. 75) that "Although the supplies of corn must usually have been low in the spring, the demand was evidently light, most buyers preferring to wait for new corn rather than purchase the carried-over crop." Light demand and small supply, in other words, accounted for the low price of corn in the spring season. The peak of corn prices came in October and November when, according to the authors, the new crop came to market. On the contrary, wheat prices were lowest following the harvest (p. 75). A more adequate explanation for the high prices of corn in the fall and the low prices in the winter and spring is suggested by the marketing habits of New Jersey farmers who, during the period 1784-1861, generally did not sell their corn until the late winter or early spring following the harvest. Instead of market supplies of corn being low in the spring, they were at the maximum for the year. The reviewer is not, however, prepared to say that Pennsylvania farmers followed the same practice. On the whole the authors steer clear of causation, being content to present a statistical history of wholesale prices.

Wholesale Prices in Philadelphia, 1784-1861 is not a work that will appeal to the general reader of economic history, neither will it interest the average student of the subject. It is repetitious, unavoidably so perhaps, and the subject matter does not lend itself to distinguished prose writing. It does contain, however, a wealth of information for the specialist in economics and economic history.

ROBERT T. THOMPSON

RUTGERS UNIVERSITY

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The Railway Interrelations of the United States and Canada. By WILLIAM J. WILGUS. New Haven, Yale University Press; Toronto, The Ryerson Press; London, Oxford University Press for the Carnegie Endowment for International Peace, 1937.—xvii, 304 pp. $3.00.

The four thousand miles of frontier between Canada and the United States are pierced by fifty-five railway and car ferry crossings, over which pass freight and passengers in each direction, unhampered by most of the frontier regulations so rigidly enforced in Europe. The contrast of this relative freedom of railroad transit between the two American countries with the rigidity of the controls maintained between European countries apparently induced the writing of the book under review. It is part of the series on the *Relations of Canada and the United States* being published for the Carnegie Endowment for International Peace.

All the railroad connections between the two countries are carefully enumerated and some historical detail on the financing and building of the connecting lines is given. Certain railroad problems common to both countries are discussed, such as rate structures, costs of construction, present capitalization and governmental control. No space is devoted to labor problems, nor is anything but a casual mention made of the international character of the railway unions. The cross-border ownership of stock and bonds in the various railroad companies is not mentioned, although it would seem to merit attention in such a book. A comparative analysis of the land grant and subsidy policy of the two countries might also have been included.

Perhaps the most valuable part of the book is the statistical presentation of the products going in both directions through the various gateways. In addition to the clear and detailed maps of the principal gateways, elaborate tables are given showing the trans-border shipments of goods over the various railways. Such data, here brought together from various documents, published and unpublished, are of real value to the student of Canadian-American economic and social as well as political relations. Brought out with clarity is the contrast between the Canadian National Railways, which was built through areas offering little chance for profitable operation and whose construction and maintenance is a form of subsidy to rural development, and most of the American lines which, since their construction, have had to stand on their own feet. The chapter on "Border Structures of Magnitude", although it does not have much bearing on

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other parts of the book, contains interesting details on the construction of bridges and tunnels connecting the two countries. In the construction of the tunnel under the Detroit River the author had a prominent part.

The appendices contain, in addition to a carefully prepared bibliography, valuable documents such as the proposed treaty between Canada and the United States respecting an International Commerce Commission, an outline of the border restrictions on freight, passengers, mail and express, the interrelated railway rates, the tariff and currency hindrances to freight traffic, a table of the mileage of all the subsidiary cross-border lines owned by the American and the Canadian roads, a table of border gateways and their dates of opening, and a challenging essay on "The Ownership Problem". The author is convinced that the prospect for a fair return upon the new capital much needed by the railroads for improvements is so poor that private funds will not be available. He further observes that the consolidation of the strong with the weak railroads in the United States has not proved feasible and concludes that recourse must be had to government ownership.

PAUL WALLACE GATES

CORNELL UNIVERSITY

Our Ineffective State. By WILLIAM H. HESSLER. New York, Henry Holt and Company, 1937.—xxi, 281 pp. $2.50.

As a trenchant and provocative study of the American constitutional system in the light of current economic and social problems this book is in a class by itself. Written for the layman, by the chief editorial writer of the *Cincinnati Enquirer,* it has none of the prolixity and self-righteous profundity so common in treatises on American government and constitutional law. Yet the author does not sacrifice accuracy and scholarship for simplicity of treatment. Like all men who know how to write and have something significant to say, Mr. Hessler wastes no words. In reading this book one is reminded of Goodnow's *Politics and Administration*, Woodrow Wilson's *Congressional Government*, Corwin's *Twilight of the Supreme Court*, and Irving Brant's *Storm Over the Constitution.*

Hessler's thesis can be briefly stated in his own words. "Only by fostering a political state adequate for a growing responsibility can we insure the satisfaction of public demands and the permanence of self-government under law. Whether we go to the Left or the Right, we need an effective state in which to live. . . . We must have

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a government united within itself, keyed to the thinking of our time, able to act as real problems require and as the expectations of the people indicate. . . . We risk the serious breakdown of general reliance in popular self-government because the state is not armed for its task; and its task is the restatement and reconquest of liberty through law, in terms of an industrial society."

The fragmentation of power through the division of authority and responsibility between the President, Congress and the Courts, and between the nation and the states, renders the government all but impotent in dealing with the insistent problems of our common life. The unfortunate consequences of this situation are apparent not only in domestic but in foreign affairs as well. Not infrequently the national interest is sacrificed to the real or supposed interest of a small minority in Kansas or Kankakee. To make matters worse judicial sabotage of governmental power (state or national) has forced public authority to resort to indirection and subterfuge in meeting the demands made upon it.

Among the remedies suggested by Mr. Hessler are greater participation by the President in the formulation of legislation and an increased use of the administrative order in handling the "petty business" that now absorbs so much of the legislature's time; a four year term for representatives to eliminate the danger of an opposition controlled House, or a grant to the President of power to dissolve the House of Representatives once in his term; the reconstruction of the Cabinet to make it a more effective and responsible agency for the determination of policy; and increased use of the joint resolution in giving the President greater power and discretion over foreign policy. Mr. Hessler favors the election of representatives upon the basis of proportional representation. He is apparently not convinced that proportional representation would lead to a breakdown of the two party system. "If the debates in Congress", he writes, "were centered effectively on broad questions of national concern, if tariffs were made in detail by administrative officials, if expenditure were solely on the initiative of the executive, and if representatives were chosen for four year terms (according to P. R.), the menace of lobbying would be considerably abated and its benefits enhanced." Upon the assumption that "the division of powers between the states and the central government is properly a political question, not a juridical one", two amendments are proposed to deal with this problem. "One would give Congress full power to

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act in national economic affairs and would re-define due process of law as a limitation on procedure. The other would revise the amending power to permit genuine majority rule."

To the charge that these changes would result in dictatorship and the sacrifice of liberty for efficiency, Mr. Hessler replies that "any distribution of powers, among the branches of government or between the central government and the states is consonant with a regime of liberty, provided the people have the capacity to redistribute those powers at will, and periodically to choose other leaders to exercise power." There is, he insists, real danger to democratic government in a situation where political institutions are impotent in the face of concentrated economic power. Dictatorship is the fruit not alone of ruthless men grasping for power, but of a political structure where responsible governmental authority is rendered sterile in the complexities of an ineffective state.

PETER H. ODEGARD

THE OHIO STATE UNIVERSITY

Dreimal Österreich. By KURT SCHUSCHNIGG. Vienna, Thomas-Verlag Jakob Hegner, 1938.—335 pp. 6. —.

This book was intended as an autobiography and as a program. It serves now as a melancholy epitaph. The last words which Dr. Schuschnigg spoke as Austrian Chancellor at the conclusion of his last radio address, "God protect Austria", within forty-eight hours had lost their meaning. Austria belongs to the past. In this book, of which an American edition will soon be published, there are revealed the hopes and aspirations of a small group of men, who believed in the mission of Austria, in her historical tradition and character, which they thought to be an indispensable element in German and European civilization. The book is simply and directly written. It is the account of Dr. Schuschnigg's life and at the same time his profession of faith in Austria, his "in seiner Besonderheit einzigartigen, in seinen geschichtlichen und kulturellen Werten unersetzlichen Land."

Thrice Austria: the Austria of Emperor Francis Joseph into which Dr. Schuschnigg was born as the son of a family of Austrian officers and officials; the dismembered Austria after the conclusion of the World War with the fight between Social Democrats and clericals, and Dr. Schuschnigg, then a young lawyer, a member of the Tyrolian group of the clerical party in the Austrian parliament; and finally

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the new Austria of Engelbert Dollfuss, whose successor Dr. Schuschnigg became as Chancellor of Austria after the tragic events of July 1934. Although the reader will disagree on many points with the author, he cannot fail to recognize that this so-called dictator speaks a different language from the dictators in neighboring countries. He argues and reasons quietly, there is no appeal to mass emotions or violence in his words. The book is written in as restrained and reasonable a way as a book by any Western statesman. The author does not strike the reader as an especially forceful person, but as clever and, within the traditional bounds of his upbringing, well meaning and intelligent. It was only in the hour of supreme danger that Dr. Schuschnigg rose above the level of the book, in his last speech which he delivered on February 24 before the Austrian Assembly and which may be remembered as the swan song of Austria.

Austria has been much misunderstood and maligned, in the nineteenth century and before the World War, by her own inhabitants and by foreign observers. In a time of general aggressiveness and efficiency, of nationalistic claims and impatience, she seemed like an anachronism. Today there may be many who recognize that there has been some wisdom in her unification of central Europe. The peoples of Central Europe had united in the sixteenth century to repulse the danger of the Turks. Their unification in a transformed federal Austria could have preserved them, free but united politically and economically, against the dangers of overlordship by the two great nations of eastern Europe, the Germans and the Russians. There had developed in Austria a mellow and temperate atmosphere of compromise and toleration. The old Austria is gone, but even today the traveler will find, from Bregenz to Czernowitz, from Lemberg to Ragusa, the traces of a peculiar civilization which may remind some people of the "good old time". Dr. Schuschnigg is right when he characterizes the mission of Austria as "die Gabe, nach Möglichkeit Kanten zu vermeiden, Gegensätze zu mildern, deutsche Geistigkeit und Kultur der Welt in einer Art zu vermitteln, dass sie nicht nur respektvolle und sachliche Bewunderung, sondern auch Liebe und persönliches Verständnis finden." After the disappearance of Austria in 1918 the peoples first rejoiced; years later, too late, a growing number began to regret the disappearance. Now many in Austria jubilate about the disappearance of the last remnant of Austria. It may be that within a few years a growing number of them will regret it. Then again the melancholy words may

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become true with which the last chancellor of Austria concludes his book: "Vielen Österreichern und vielen anderen in der Welt waren seine Lichtseiten und Vorteile zum erstenmal ins Bewusstsein getreten —als es zu spät war!"

HANS KOHN

SMITH COLLEGE

A Constitutional History of British Guiana. By SIR CECIL CLEMENTI. London, Macmillan and Co.; New York, The Macmillan Co., 1937.—xxii, 546 pp. $7.25.

The author, who was Colonial Secretary of British Guiana from 1913 to 1922, has written a detailed account of the origin and development of the older constitution of the colony, a form of government only replaced in 1928. Its avowed purpose is to indicate the historical background for the badly needed changes of a decade ago and to quiet efforts at restoring any features of the older order.

When the Three Rivers became permanently British at the end of the Napoleonic wars, there was little change in the system of government introduced by the Dutch. A Court of Policy, or Council, included some unofficial members, chosen by a College of Electors (Court of Kiezers). The members of this College were elected for life. Another College of Financial Representatives, chosen for two years only, joined the other two groups to form a Combined Court. It was a sort of legislative council with power (until 1928) of checking the governor's financial proposals and hindering the effectiveness of the Crown, though the Crown had to take the ultimate responsibility for the colony's welfare. The chief objection to these curious arrangements, apart from the College of Electors and the powers of the Combined Court, was the very limited franchise. The high property qualification for voting—before the abolition of slavery it included the ownership of twenty-five negroes—was so limited that as late as 1850 there were less than a thousand voters in a population of 127,000. Even twenty years ago less than five per cent of the males had the vote and the East Indians, forming over half of the population, had less than one per cent of the registered voters.

The financial troubles of the twenties finally brought reform. Recurring deficits and irresponsibility led to the appointment of a Parliamentary Commission. The result was an Act of Parliament of 1928, abolishing the Combined Court and replacing it by a Legis-

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lative Council of the familiar crown colony form, with elective members in a minority. Thus came to an end the older constitution, the "worst in the world", according to Lord Oliver's statement in the debate on the bill. If the complicated arrangements of earlier days served as a conspicuous example of "Crown Colony government gone wrong", British Guiana was at last rescued, in the words of the author, from the "constitutional quagmire in which it had floundered for more than a century."

The treatment is highly commendable, although almost too detailed at times. The study is the more valuable, since it is the work of one thoroughly familiar with British Guiana. Nearly a third of the volume consists of relevant documents, some not easily available. Comparisons with the constitutional arrangements in the neighboring West Indies are lacking. The volume has no bibliography, though the treatment is well documented, and the absence of an index makes the work difficult to use. The historical section is too much broken up into brief chapters and Part III—the critical analysis of the older constitution—is somewhat repetitious. As a whole, however, the volume will prove a very useful study of the government of one of Britain's most curious possessions.

HOWARD ROBINSON

OBERLIN COLLEGE

When China Unites. By HARRY GANNES. New York, Alfred A. Knopf, 1937.—293, xiii pp. $2.50.

This timely volume bears the sub-title *An Interpretive History of the Chinese Revolution.* The sub-title is aptly chosen. The book is in fact more interpretation than history. It is written from the point of view of a sympathizer with the Communist Party of China and is devoted to the task of vindicating the course which the leadership of that party has steered upon the stormy seas of Chinese politics since the close of the World War. The performance of such a task compels a critical attitude toward the Nationalist government of China. It compels also an acceptance of the leadership of the Stalin faction in the Comintern and a condemnation of Trotskyism.

These attitudes determine the meaning which the author attaches to Chinese unity. The only kind of unity which his interpretation recognizes as legitimate is that which is based upon collaboration between the Nationalists and the Communists. Such "unity" was once achieved by the admission of the Communists into the Kuomin-

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tang following the first national Congress of the latter party in 1924. It continued at least in name until the expulsion of the Communists in 1927 and the establishment of the Nationalist government at Nanking. It was achieved again after ten years by the new entente between Nationalism and Communism which followed the kidnapping of Chiang Kai-shek at Sian in December 1936.

This kind of unity originally fell far short of an effective union of the principal forces in Chinese politics. It excluded not only the remnants of *ancien régime* in China, not a negligible factor at the close of the World War, but also the bulk of the rising class of Chinese capitalists. This involved a split in the Nationalist party itself, since the new capitalists were an indispensable element in the creation of the new China. The Nationalist government under the leadership of Chiang Kai-shek, forced to choose between Communism and capitalism, rejected Mr. Gannes's kind of unity and formed a new and more opportune union with the Shanghai bankers. It was not until after the Sian kidnapping that both bankers and Communists were brought into the same union and Chinese unity took on new meaning.

The new union of China in the circumstances of the time implied a union against Japan. It is not surprising that war should have followed so quickly, nor that Mr. Gannes should have hastened to publish his book. The book throws a flood of light upon the causes of the war and the prospects for the future, but the haste with which it was manifestly written has resulted in many errors and omissions. The evidence which the author produces in support of his point of view is very imperfect, his logic at times far from convincing.

The logic of events is much more convincing. It is evident, though the author makes light of it, that the Seventh Congress of the Communist International at Moscow in 1935 ushered in a revolution in the strategy of the Chinese Communists. The new policy of the united front made possible for China a much more perfect union than could have been brought into existence before. The adoption of this new policy at Moscow implies a confession of error which Gannes is unwilling to make explicit. His lack of candor impairs the lucidity of his interpretation of Chinese revolutionary history, but it does not detract from the importance of his book regarded as a sign of the times.

ARTHUR N. HOLCOMBE

HARVARD UNIVERSITY

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Intelligence in Politics. By MAX ASCOLI. New York, W. W. Norton & Company, 1936.—ix, 280 pp. $2.50.

This volume presents an interesting, if confused, view of the position of the intellectual under so-called democratic conditions and of the rôle of intelligence in politics. Admittedly, the task was difficult. Professor Ascoli does not "claim to propose any rigid line of political action as becoming to intellectuals" for he is aware of the fact that "political action is determined for each individual and for each group by too many and too various interests, sentiments and resentments" (p. viii). The author, therefore, concerns himself with the "responsibilities of intelligence toward modern politics" (p. ix), that is, the responsibilities of the intellectuals.

Without clearly defining "intelligence" Mr. Ascoli classifies intellectuals as "the artisans of a specific craft . . . the technicians of expression" (p. 17), whose business it is to shape and define the issues, "to establish hypotheses and patterns which may give meaning to the gamble of life" (p. 19). Mr. Brisbane and Huey Long shaped and defined issues for many people; they erected hypotheses which gave meaning, perhaps, to the gamble of life; but would Mr. Brisbane and Huey Long be repudiated as intellectuals by intellectuals? Both were not simple technicians but masters in the technique of expression. Hitler and Mussolini do many of the things the intellectuals are supposed to do—they shape and define issues for thousands of people, they erect hypotheses, they are technicians of expression; but, is Hitler an intellectual? If intellectuals establish hypotheses and patterns, for whom are these hypotheses and patterns established? The public? If so, what public? The present reviewer is troubled.

Mr. Ascoli weakens his thesis considerably by numerous generalizations and an unwillingness to define his terms. For instance, he says: "Democracy lives by secrets and in secrecy. For the protection of its secrets democracy has a device far more original and efficient than a hidden government. The secrets of a democratic society are kept inviolate because they cannot be expressed. In some regimes the fundamental secrets are entrusted to a privileged class, in a democracy the supreme power may be kept by an invisible government; but the fundamental secrets are entrusted to nobody because democracy tends to diseducate people from thinking. Intelligence is given unlimited freedom of expression and at the same time is made bare, technical, servile; expression is offered the widest possible

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opportunities for dissemination, but at the price of being flat and trivial as the large audience demands. The secret of democracy is to prevent clear ideas, sharp differences, real personalities, and to emasculate expression while granting it what it always demands: a wide audience, and liberty" (pp. 68-69). This is certainly a vague generalization and must necessarily be so since it includes such terms as "democracy", "intelligence" and "liberty".

Democracy tends "to diseducate people from thinking." Democracy does nothing of the sort. Those who rule in the name of democracy may tend to diseducate people from thinking. What rulers do not tend to diseducate people from thinking? How can they avoid the tendency to make the people see eye to eye with them? In other words, perhaps one of the most important functions of government is to preserve the illusion of liberty. "Intelligence is given unlimited freedom of expression and at the same time is made bare, technical, servile". Is it permissible to inquire *how* intelligence is made "bare, technical, servile"?

"The XIVth Amendment", says Mr. Ascoli, "was the supreme celebration of the marriage between democracy and business . . . by linking together personal freedom and personal property, the framers and the interpreters of the XIVth Amendment made official and legitimate the transposition of the life of the nation from a political to an economic plan . . ." (pp. 160-161). Is this statement, to some extent, misleading? Might one not say that the "supreme celebration" of the above-mentioned marriage took place in 1789 when the Constitution first became effective? The Constitution, in spite of the halo of democracy which surrounds it, was a reflection of special interests posited upon a profound distrust of democracy. Is there anything in the debates in Congress relative to the amendment which supports the view of Conkling that unequal taxation and the protection of business were in the mind of the Committee which framed, or the Congress which adopted and proposed the amendment? True, there was talk of unequal laws, but none about unequal laws respecting taxation or business. The amendment was designed to protect the negro in his civil life. It was ratified in 1868. Eighteen years later, in *Santa Clara County* v. *Southern Pacific R. R.*, 118 U. S. 394 (1886), the Supreme Court expressly recognized a corporation to be a "person" within the meaning of the Fourteenth Amendment. And what of the earlier interpretations?

Intelligence in Politics is well written and deserves careful consideration.

C. GORDON POST

VASSAR COLLEGE

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Fontes Juris Gentium. Edited by VIKTOR BRUNS. Series B. Sectio 1, Tomus 2: *Digest of the Diplomatic Correspondence of the European States, 1871-1878.* Published for the Institut für Ausländisches Öffentliches Recht und Völkerrecht by Carl Heymanns Verlag, Berlin, 1937.—xl, 622 pp. 41. —.

Politische Verträge: Eine Sammlung von Urkunden. Traités Politiques: Recueil de Documents. Edited by VIKTOR BRUNS. Band I. Tome 1er: *Garantiepakte, Bündnisse, Abkommen über politische Zusammenarbeit, Nichtangriffs- und Neutralitätsverträge der Nachkriegszeit. Traités de Garantie, d'Alliance, de Collaboration politique, de non-Agression et de Neutralité conclus après la guerre.* Band II. Tome II: *Materialien zur Entwicklung der Sicherheitsfrage im Rahmen des Völkerbundes. Documentation relative au développement de la question de la sécurité dans le cadre de la Société des Nations.* Erster Teil. Première partie (*1920-1927*). Bearbeitet von (recueillie et annotée par) Georg von Gretschaninow. Berlin, Carl Heymanns Verlag, for the Institut für Ausländisches Öffentliches Recht und Völkerrecht, 1936.—lii, 636; xxix, 486 pp. 24. —.

Earlier volumes of the distinguished series of volumes which Dr. Viktor Bruns is publishing under the collective title *Fontes Juris Gentium* have been reviewed in previous numbers of the QUARTERLY where the scope of the project has been described.[1] The new volume of the *Digest of the Diplomatic Correspondence of the European States* comprises the first two of three parts covering the period 1871-1878; the third part will contain indices. The documents on the period 1856-1871—covered by Volume I—which have been published since that volume appeared are to be published later in a supplementary series. The editors state that in response to many requests they have included longer extracts than they did in Volume I but otherwise the same system is followed.

The two volumes of political treaties here under review are not technically a part of the *Fontes* but are complementary thereto. The *Fontes* will ultimately include a series containing treaty texts but the complexity of that work has necessitated postponement of publication and the editors have fortunately decided to issue these special volumes at this time.

[1] Vol. XLVII, June 1932, p. 296; vol. XLVIII, June 1933, p. 303; vol. LI, June 1936, p. 280.

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They are designed to afford a convenient repertory of documents essential to a study of the post-war system of security. Unlike many other projects, the editors have not sought to include all data bearing upon pacific settlement of disputes, confining themselves to agreements of guaranty, alliance, political collaboration, non-aggression and neutrality. The first volume includes those agreements affecting the conduct of two or a few states, while the second contains the documentation of the steps toward the same ends within the framework of the League of Nations. The editors have showed their good sense in not binding themselves by technical classifications in making their selections. Many documents are printed which are not treaties; where treaties contain articles both relevant and irrelevant to the general purpose of the collection, the appropriate articles are printed and the others are excluded. Along with the Pact of Paris of 1928 are printed much of the preliminary correspondence and other pertinent documents, all of which are of legal value in interpreting the instrument. Here one also finds, for example, Secretary Stimson's letter of February 23, 1932 to Senator Borah which, as Mr. Stimson explains in his book, *The Far Eastern Crisis,* was written for general public consumption. One finds also Mussolini's speech in the Italian Senate on June 7, 1933 on the agreement between Germany, France, Great Britain and Italy and the report on the Franco-Soviet Pact presented to the French Chamber on December 10, 1935. A number of texts not hitherto published have been made available by the various governments concerned.

Footnotes give information concerning dates of ratification and the like, but this information and the bibliographical references are not as complete as those in Hudson's *International Legislation.* The tables and bibliographical references at the end of Volume I are excellent.

In Volume II, the editors obviously faced a very difficult task of selection and arrangement which they have solved in a competent manner. The text of the Covenant is printed first and is then followed by a section containing documents on the harmonization of the Covenant and the Pact of Paris. Section III contains documents bearing upon the interpretation of Articles 10, 11, 12, 15, 16, 19 and 21 of the Covenant, arranged under each article. Section IV deals with the efforts to conclude a Treaty of Mutual Assistance, especially in 1923 and 1924, and Section V covers the Geneva Protocol of 1924. Section VI covers the discussions following the failure of the Protocol, and the League in relation to Locarno. The

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final section contains two pages on the declaration of the Eighth Assembly (1927) relative to wars of aggression. Part II will carry the documentation up to 1936. Although it is true that this volume contains data already available in League publications, the utility of segregating these important documents dealing with the problem of security is obvious. As usual, Dr. Bruns has been happy in his choice of an editor, the work here having been done by Georg von Gretschaninow. His forewords are clear and convincing expositions of the scheme which he has followed.

PHILIP C. JESSUP

The Social Contract: A Critical Study of Its Development. By J. W. GOUGH. Oxford, at the Clarendon Press; New York, Oxford University Press, 1936.—vi, 234 pp. $5.00.

The Political Philosophy of Hobbes: Its Basis and Its Genesis. By LEO STRAUSS. Translated by Elsa M. Sinclair. Oxford, at the Clarendon Press; New York, Oxford University Press, 1936. —xviii, 172 pp. $3.50.

History of Political Thought in Germany from 1789 to 1815. By REINHOLD ARIS. London, George Allen & Unwin Ltd.; New York, The Macmillan Company, 1936.—414 pp. $4.25.

Mr. Gough has written a book of which any scholar is entitled to feel proud. It has been criticized as an academic book devoid of a sense for those conflicts which are the texture of politics. In one passage, it is true, he dares to refer to Marx without due genuflections. For the rest, in this able survey of the theory of social contract, from the Greeks to Calhoun, Mr. Gough does the authors whom he discusses the honor of presuming that they are concerned to ascertain truth and not merely with the alignment of preponderant forces.

Today, when we are obsessed with the myth of social organism, it is difficult to think ourselves back to the mental presuppositions of men, half deceived by the notion of a Golden Age in the past, who were attracted by the mythology of social contract. In substance, however, it was a theory, dominating outstanding minds for over two centuries, which defended respect for the personality of the individual and fostered federal ideas. It was a buckler against the administrators, who regarded society as a regal mechanism wherein men were merely subjects overruled by reasons of state, and, again,

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against the encroachments of unlimited paternalism. It enabled even Hobbes, the most dishonest of its exponents and the fashioner of *Leviathan,* to remain without inconsistency an individualist at heart and to influence his later followers in that direction.

Mr. Gough discusses the post-medieval origins of the doctrine in Cusanus, Salamonius, Beza and Suarez, not to speak of the *Vindiciae,* which he assigns to Languet. He clarifies the distinction between governmental contract and social contract proper. Some interesting pages are devoted to a critical discussion of Professor C. J. Friedrich's treatment of Althusius and he assigns to this author's *Politica* the high honor of being written from interest in truth and not as propaganda. Mr. Gough, moreover, points out that Puritans such as Winthrop were like Hobbes and like the post-Kantians in this one point, that they used the theory of contract conservatively to justify the substitution of a "liberty to that only which is good" for a wild, lawless freedom. Of most interest, however, is Mr. Gough's discussion of the final statement of the doctrine, stripped of mythology, as one of tacit contract. Even thus restated little is perhaps gained by the misuse of legal (even if also of Biblical) terms. But Mr. Gough sorts out the final kernel. "Moral rights, it seems to me, while necessarily involving society, do not necessarily involve recognition by society—certainly not by any particular society." Here is the answer to T. H. Green; and here is a position, I submit, basic to any sound political philosophy. Does it yet involve recognition by reason? Are these basic rights delimited, as the Fathers held, by reason and instinct? And what here is reason? These are issues that carry us beyond Mr. Gough's present province, although one may hope that they will hold his future attention.

Dr. Strauss has written a volume of detailed analysis which all students of Hobbes will have to read, although they may well differ from its conclusions which are more ingenious than substantial. If accepted, their effect is to reduce the importance of Hobbes as a thinker. Dr. Strauss makes the startling discovery that Hobbes is a follower of Plato and an anticipator of Kant. He is a Platonist because he misunderstood Plato and because he was blinded by hostility to Aristotle whom he regarded as merely the chief of the Schoolmen and as a father of words. Hobbes declares that "in the first place I put . . . a restless desire of power." He later puts into antithesis, as motives, desire of ease and "fear of death, and wounds." This in the *Leviathan.* Dr. Strauss, not content with the pleasure and pain motivation, finds the stress words in *timor*

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mortis and especially, on the basis of Hobbes's earlier writings, in fear of *violent* death. "Violent" here is the clue. Here the real world (like the God of whom fear is enjoined by the Puritans) impinges on the world of man's boastful imagination and vanity. Here then, in fear, is the sober basis of a rational morality. In emphasizing the importance of moral attitude, rather than of science, Hobbes is at one with the Christian tradition. Bacon had been interested in "the several characters and tempers of men's natures." His secretary, Hobbes, in his better, humanist period had had the same interest until, in an evil hour, he discovered geometry. But "Hobbes' materialist-determinist theory . . . is not only not needed for his political philosophy, but actually imperils the very root of that philosophy." Hobbes, in brief, was a great moralist and, indeed, more than half a Calvinist.

The chief objection that I can see to this theory is that it assumes that the major motif of his philosophy was undetected by Hobbes's contemporary critics, such as Clarendon, and, in his later years, had been forgotten by Hobbes himself. Dr. Strauss redetected it, made a book of it and deflated the aging Hobbes. But if, as Dr. Strauss asserts, Hobbes's thesis was precisely not that of Spinoza, one wonders why Hobbes speaks of Spinoza as "going beyond me a bar's length". Or is it just that Hobbes, being one of the few men of letters and one of the few humorists among the philosophers, is paying the penalty of his verbal indiscretions? The conclusion that "only inconsistent naturalism is compatible with Hobbes' political philosophy" is not consistent.

Dr. Aris has produced a book which is full of good things, on a too much neglected area of political literature. He is fortunate in having, to write his introduction, by far the most eminent English-speaking scholar in this field, Dr. Gooch. Crane Brinton's interesting, if brief, study, *The English Romanticists,* can be put beside it. One sometimes wishes that Dr. Aris would not turn aside to instruct us about the correct Marxist interpretation of this theory or that. I should, however, be far from denying that it is of interpretative value to learn that "the Romantics were a group of men whose lack of economic security divorced them from their own class and forced them to find support elsewhere." They performed no work for the timid German middle class equivalent to that performed by the Girondins in France. The danger, however, of these brisk generalizations is shown by Dr. Aris himself, who points out that Novalis, their leader, was a nobleman, although an impoverished one.

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Fichte emerges from this study as of far less importance, more merely transitional, than in the general rating—the Individualist who ended by merging the individual, not in the rising German nation, but (like a good academic who remembers his lessons from the eighteenth century) in the human species. Nevertheless, Dr. Aris places at the door of Fichte, the Romantics and especially Adam Müller, the responsibility for initiating that line of thought in Germany which ends in National Socialism. No chapter in this indispensable book is more fascinating than that on Adam Müller and the social organism theory, our modern myth which awaits that critical exposure with which the social contract theory has now been flogged by four generations of university professors.

GEORGE CATLIN

LONDON

Human Migration: A Study of International Movements. By DONALD R. TAFT. New York, The Ronald Press Company, 1936. —xxvi, 590 pp. $4.00.

In the opening chapter of this volume the reader encounters the viewpoint of the sociologist. Migration is discussed in relation to the problems of population. Attitudes toward migration are described, both within the country of emigration and in the country of immigration; on the part of the migrant himself, on the part of labor, of employers, of the social worker, and of the student of international relations. Reasons are advanced to account for different attitudes and policies.

The author states at the outset the deep, underlying causes for international movements of population in modern times—the uneven distribution of men, and of economic resources and cultural advantages in the world; the economic interdependence among the nations, often in conflict with the strong spirit of nationalism which influences nations today to set up barriers against the free movement of goods in trade and the free movement of men in international migration.

Three lines of interest run through this book: first, the desire to describe and to explain migration itself, and to determine objectively and impartially its moving causes and its far-reaching effects; second, the desire to analyze and to understand the conditions which result in attitudes of opposition and in policies of restriction and their opposites; finally, the hope that analysis and interpretation will lay

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the foundation for more reasonable attitudes and for policies which visualize the interests of all elements in the population rather than those of a single culture or of specific groups.

The work is intended primarily for American students and, therefore, emphasizes migration to the United States; its history, causes, effects and regulation. Other national movements in world migrations are described for the sake of perspective. Migration within the country is excluded from the treatment.

The book has been written especially for the mature student of migration. Facts, which the author employs extensively with unusual effectiveness, in his unbiased and critical analysis of migration experience and problems, are incidental to the proposal and attempted answer of specific questions designed to stimulate observation and inquiry on the part of the thoughtful student. His impartial and international viewpoint is in striking contrast to many one-sided theories on migration and population which influence prevalent attitudes. The viewpoint of the sociologist rises above that of the nationalist. He reviews critically the researches and interpretations of authorities and points out the limitations of their discussions.

When the reader closes the volume he has no dogmatic assurance that the problems of migration have been finally solved. Questions have been proposed, theories have been critically examined, and facts have been marshaled for the purpose of promoting understanding, not with the object of supporting a particular theory or policy.

Professor Taft departs from the traditional treatment of some of the economic and cultural effects of migration. For example, he looks upon the maladjustments arising out of the clash of cultures as temporary and in large part as unavoidable costs of cultural change. The social problems of crime and delinquency are of this character.

The value of freedom of movement within a country raises the question of similar values in the free movement of individuals between countries. While admitting the need for intelligent control of immigration, the author views too rigid barriers against immigrants as an influence tending to interfere with cultural advance and to foster intolerance on nationalistic lines. In the contacts and conflicts of diverse cultures he discerns the enrichment of national life. The control of immigration is a social matter, but Professor Taft is unconventional in stressing the international aspects of its regulation. In his opinion, the determination of migration policies requires joint discussion and action on the part of the nations involved.

ROBERT E. CHADDOCK

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A Social Study of Pittsburgh: Community Problems and Social Services of Allegheny County. By PHILIP KLEIN and Collaborators. New York, Columbia University Press, 1938.—xxvi, 958 pp. $4.75.

This volume describes and analyzes the ways and means by which organized philanthropy and government meet the diverse needs of the population of Allegheny County and Pittsburgh through social services, medical activities and preventive measures. It requires twenty-one chapters and four appendices to do this work within the compass of over 900 pages. The subject matter is further made accessible by an excellent index. A staff of some thirty specialists, an advisory committee, and additional consultants collaborated. Adequate critical appraisal of a work of this magnitude that required three years of study, including eighteen months of field investigation, would be the task of specialists, hence this review is necessarily a general exposition and evaluation rather than a detailed critique.

The book is divided into two parts. Part one on social and economic background begins with an admirable chapter on scope and method, which in itself constitutes a stimulating and thoughtful essay; and there follow chapters on Allegheny County as a place in which to live; the chances for a living in Allegheny County; social legislation and labor organization; physical conditions of life; racial and ethnic stratification; social attitudes, public opinion and pressure groups; and the Pittsburgh public schools as an example of progress. The second part of the book is more technical from the social work point of view. It describes and analyzes social services and health services for Allegheny County in chapters that begin with a panoramic summary of social work in Pittsburgh and Allegheny County, and then consider cost and support of social work, planning and coördination of social work, the personnel of social agencies and facilities for professional training, relief and social case work, problems and practices of relief, proposed agency structure and policies for economic relief, social case work or personal adjustment, social work for children, organized care of the sick, public health administration, and leisure time activities. A final chapter or epilogue summarizes the achievements to date of publication that grew out of the survey recommendations. Appendix B summarizes the principal recommendations of the study. These bear upon such problems as the organized care of the sick; public health administration and public health nursing; coördination, social planning and support of

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social work; professional training for social work; relief and social case work as they relate to voluntary agencies; relief and case work as they relate to public agencies; problems of the New American; and leisure time activities.

Because of the social science approach to the problem made in Part One, this survey will have wider use among scholars and students than would have been the case if the more technical social service details of part two had monopolized the report. Sociologists and social-economists will find valuable the first eight chapters that compose the social and economic background. How logically inevitable is the relationship of background factors to social services, and these to recommended changes? Is the assumption that runs through a study organized in this manner one that social cause and effect relationships connect the social services as effects with the background factors as causes? That is to say, are the agencies and institutions which perform the social services the response of society to its conception of what are the acute and recurrent social problems of the area? Or, are the agencies and institutions which perform the social services meeting the real needs because these services are based upon knowledge of cause and effect in the area of social relationships? Recommendations based upon the former hypothesis might lead to temporary smoothness of performance of somewhat ineffectual functions. Recommendations that have the latter type of base would proceed from the use in research of established social principles and standardized tools of scientific observation of such a nature that they would supply the sure means of testing the effectiveness of social services in preventing the recurrence of the needs. The author shows some appreciation of these fundamental problems of method and interpretation (pp. 9-10) and seems to conclude that only indirect methods of study are now available and that the use of these methods suffers from the fallacies of the hypothesis stated above. Whether the citizens and social workers who read the survey and consider its recommendations are likely to make the distinction herein presented is a question worth asking. In any event, the book deserves careful study by specialist and general reader alike. It is not a sequel to the original Pittsburgh Survey but does carry over from that study and into the contemporary scene an enlightening point of view and a critical examination of social conditions supplied by the insights and techniques of social analysis of experienced students of human affairs.

F. STUART CHAPIN

UNIVERSITY OF MINNESOTA

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The Early Stuarts, 1603-1660. By GODFREY DAVIES. Oxford, at the Clarendon Press; New York, Oxford University Press, 1937.—xxi, 452 pp. 12s. 6d.; $5.00.

This well-written volume in the *Oxford History of England*—the fifth to appear—is easily its own justification. Lacking any compact survey, with the exception of Montague's thirty-year-old volume in the Political History of England series, students have had to fall back on Gardiner, a textbook, or special monographs, neither of which satisfactorily reveal the manifold features of this lively and significant period. Generally speaking, this volume is at once conventional in its emphasis, up-to-date in its interpretations, and judicious in its estimates. Politics in their various aspects receive the greatest stress and provide the clue to the organization, but the up-to-date and judicious quality of the exposition precludes any pronounced party bias or thesis. The Whiggism or Toryism, open or concealed, of older treatments has no place here. The struggle of King versus Parliament, while set forth as a matter of great moment, is presented in so comprehensive and objective a fashion that indeed almost for the first time it seems an integral part of English history, and not the end to which all English historical creation moved or the beginning from which it has stemmed.

According to Mr. Davies, "the keynote of the seventeenth century was revolt against authority. . . . In politics occurred the most obvious instances" of this revolt. In view of this assumption, the reader need not be surprised to discover that nearly half the text falls under the topic, "political and constitutional history", and scarcely more than a quarter—if religion be excepted—deals with economic, social and intellectual concerns. Although the space devoted to religion is mostly given over to its public aspects rather than to its inner light, Mr. Davies clearly appreciates the penetrating significance of religious issues. His volume in large measure is a commentary on the great emphasis religion received in the debates of the Stuart parliaments and in the shaping of events. Outside of political questions in their broadest reaches Mr. Davies is not quite so much at home; nevertheless his chapter on social and economic history shrewdly assesses the major tendencies.

Indeed, the concentration on political factors is the chief weakness of the volume. Within its limits, it is well-nigh brilliant, but the limits are narrow. Only occasionally is Mr. Davies guilty of loose ends within the pattern he has cut out. His description of the yeo-

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men as "normally puritan in religion, or, if Anglicans, strong protestants, and . . . opposed more or less instinctively to Arminianism and sacerdotalism", leaves something to be desired in the use of terms. Were "puritan" and "Anglican" mutually exclusive terms? Likewise his seeming distinction between mercantilism and "the belief that it was essential to have an excess of exports over imports" is confusing. Finally, he uses that perplexing phrase, "Renaissance", rather too facilely. These defects and others like them, however, are perhaps trivial besides certain conspicuous omissions—omissions which follow from preoccupation with the theme stressed. It may be recalled that the early seventeenth century was significant in the history of law; Coke alone with his judgments and his errors—not to mention other distinguished legists—gives character to a period fruitful in its application of many fundamental doctrines. Political philosophy might well have received some of the attention showered upon political institutions. Bacon was much more than the chancellor who was caught. Moreover, many of us would like to know what people were reading in their casual haphazard way, how they reacted to their environment, and how they lived. Such matters are, of course, slippery. In any case, students of the seventeenth century will be grateful to Mr. Davies for providing an excellent guide to the tangled skein of early Stuart politics.

CHARLES F. MULLETT

UNIVERSITY OF MISSOURI

Roman Britain and the English Settlements. By R. G. COLLINGWOOD and J. N. L. MYRES. Oxford, at the Clarendon Press; New York, Oxford University Press, 1936.—xxvi, 515 pp. 12s. 6d.; $5.00.

Professor Collingwood and Mr. Myres collaborate very happily in this first volume in the *Oxford History of England.* Their work fills a long-felt need, for, as Collingwood notes (p. 465), no satisfactory modern treatment of Roman Britain, combining a historical and a sociological presentation, has heretofore existed. Haverfield's *Roman Occupation of Britain* dealt chiefly with the sociological aspects as illustrated from archaeology, Oman's *England before the Norman Conquest* is both brief and out of date, and Windle's *The Romans in Britain* is "not invariably accurate." Myres treats a more obscure period, the century which elapsed between the final severance from Rome and the emergence of the English kingdoms into the light of conscious history. During this century, a literary

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and chronological framework fails almost wholly and the picture must be built up from archaeology, from later conditions, and from obscure hints in the Anglo-Saxon traditions. To say that the work of these two scholars is scholarly would be unnecessary. To say that, though writing independently, they have succeeded in producing a harmonious and continuous narrative is a tribute both to the general agreement which painstaking archaeological research has secured upon the vague outlines of later Romano-British history and to the happy intimacy which, according to Collingwood (p. v), exists between the two.

In such a short space the contents cannot even be summarized. The book, however, should prove valuable not merely to historians of Rome or England but to the political scientist and the sociologist because of the attention which is paid to the character and development of the two societies, in each case the result of the imposition of a new culture on a different and well-established one but under wholly different conditions. Two or three points may be singled out for praise. The geographical discussion by Collingwood will be most welcome to those who feel that historians often neglect too much the physical conditions of society. His sketch of pre-Roman Britain makes one regret that "the time for writing that volume [on British prehistory] has not yet come" (p. vi). The anthropological conclusion accepted by both writers (pp. 17-18, 426) that no fundamental changes of racial type occurred during the period under discussion is significant. Collingwood is now prepared to admit cautiously (ch. xviii), against his former view (pp. 476-477), that there may have been a resumption of occupation from Rome in the southeast between 417 and 429 A. D. Myres denies that there was any real differentiation among the first invaders between Angles, Saxons and Jutes; rather, there were three points of entry, the Thames valley and the southeast, the Fens and the Humber. One would like to discuss the parallel drawn between methods of ploughing and life in villages or villas and to enlarge upon the treatment of art. Collingwood appears somewhat self-contradictory when he argues (pp. 252-259) on the one hand that an artistic tradition cannot be inherited like a biological trait but must be handed down more or less consciously from artisan to artisan but, on the other, that the Celtic style was first almost wholly submerged by the Roman and then sprang into new life after a lapse of four centuries. Two details perhaps call for criticism. Collingwood still accepts (pp. 169-170) the division of *Britannia inferior* as the northern and

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Britannia superior as the southern of Severus' two provinces, divided along a Humber-Mersey line. Chapot, however, has suggested (*Le Monde romain,* p. 392, with ref.) that the line ran roughly north and south between lowland and highland. He traces the Roman use of the two terms to a difference in geographical elevation; perhaps it was rather due to location along the course of some river as, in England, the Thames. Myres retains (p. 435) the old derivation of "pagan" from "countryman" though Harnak (*Das Mission,* ed. 4, p. 430 n. 2, with refs.) and others think that the contrast was not between Christian city and heathen country but between soldiers (*milites*) of Christ and civilians (*pagani*). J. Zeiller, however, (*Paganus*) supports the traditional view.

The book is admirably and accurately printed and the critical bibliographies are most useful. One could wish that Collingwood had followed Myres in a more lavish use of maps. Non-English readers, especially, will find that his constant mention of modern English place-names, where his one map gives only the Roman, often makes his discussion hard to follow. One could also wish that the scope of such histories as these gave more room for detailed footnotes. In Collingwood's treatment particularly it is difficult sometimes to distinguish the literary from the archaeological material. Finally, some of the discussions, as of art, would be much illuminated by illustrations. But conditions of space and expense impose limitations and thoughtful readers will welcome this comprehensive and stimulating presentation of a subject fraught with suggestions for many fields.

MASON HAMMOND

HARVARD UNIVERSITY

The First Russian Revolution, 1825. By ANATOLE G. MAZOUR. Berkeley, University of California Press, 1937. — xviii, 324 pp. $4.00.

1825—The First Russian Revolution! Scarcely a half-century had passed since the flaming surge of peasant revolt had swept along the Volga and through the Urals, had enthroned the Cossack Pugachev at Kazan, had lapped the gates of Nizhny-Novgorod, had menaced Moscow. The eighteenth century had been punctuated with midnight torchlight processions in St. Petersburg to enthrone a new empress by force of arms. But on December 14 [26], 1825, three thousand soldiers, "'brought to the [Senate] Square like sheep, while the leaders had hidden themselves' . . . stood aimlessly,

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pierced by the raw north wind, occasionally shouting 'Hurrah for Constantine!' and patiently wondering what it was all about" (pp. 175-176).

The Decembrist revolt strongly resembles a Ruritanian comic opera, though with a macabre sequel. In the Manifesto drafted by Trubetskoi, the chosen dictator, "the word 'freedom' must be avoided lest the peasants rebel" (p. 161). The initiates were principally colonels, and largely of the Guard; the "inexplicable" failure of many of them to appear at the scene marred the effect "'for with few epaulets and without military titles no one dared to take command'" (p. 175).

The story of the Decembrist movement is well told in this volume. The origins of the "secret" societies, the nature of their initiates, and the ideals they so long discussed are carefully developed; the sudden catastrophe and miserable fiasco are clearly recounted. It is to be regretted that it has been deemed necessary in introductory chapters to tog out the movement in overwarm colors. Here the author's enthusiasm for his subject leads him to make extravagant assertions, such as that the Decembrist movement "opened the century-long struggle between autocracy and democracy in Russia" (p. xvii). Yet the author is clearly aware that both Pestel (p. 78) and Muraviev (p. 93) drew much of their political thought from the United States under the "Virginia Dynasty", an oligarchy of southern slaveholding landowners and of wealthy northern merchants. His own careful analysis is that "the leaders of the Northern Society had planned the establishment of a government for the people but not by the people" (p. 263). Even Pestel was a Russifier and an anti-Semite (p. 104). Certainly the Decembrists were not struggling for democracy. Again, the claim that Herzen and others were "typical representatives of the generation that raised the banner of the Decembrists still higher" (p. 272) is made without reference to the fulminations of surviving Decembrists in Siberia against the man who washed Russia's dirty linen with the eyes of the world fixed upon him; one may suspect that Herzen's knowledge of his own and his mother's status was more potent in shaping his ideals than the narrow ideals of the Decembrists.

In the near-vacuum of Decembrist social thought the author's sympathies produce still more serious carelessness, permitting him to write in successive sentences: "Nearly every member of the Decembrist Society opposed serfdom; . . . the fact is undeniable that the Decembrists unanimously opposed serfdom" (p. 7). In subsequent

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sober analysis the author himself makes it plain that the Decembrists had no solution for the problem. Muraviev wavered between landless emancipation and the allotment of a scant five acres per family, with preservation of the commune (p. 94); while Pestel advocated abolition of landlordism (pp. 105-106) on the basis of a scheme borrowed from revolutionary France, and "Pestel was no socialist, nor communist" (p. 115).

There is a sharp difference between the chapters devoted specifically to the Decembrist movement and those which seek to build up the concept of the first Russian Revolution, "the prologue to the Russian Revolution of 1917". Assuredly the Decembrist movement may be styled the first Russian revolutionary movement, but between a revolutionary movement and a revolution is all the difference between a swallow and a summer.

The historical interest of the Decembrist movement lies neither in its aims nor in its technique. Its peculiar stamp is the fact that for the first time in Russia had been attempted revolution on a conscious ideological basis. Decembrist thought was meager and confused, but Decembrist martyrdom for an ideology inspired succeeding generations of professional revolutionaries, whose efforts were in their turn so tragically impotent to influence the material forces in Russian history.

The author's "Background for Revolution" is scarcely more than a protrusion of the views of the Decembrists excerpted from their memoirs. Yet the bulk of the volume is an able contribution, focusing much light on a curious side of Russia's intellectual history, the legend of which is enshrined throughout the Soviet Union in "museums of the revolution".

JESSE D. CLARKSON

BROOKLYN COLLEGE

The Lives of Talleyrand. By CRANE BRINTON. New York, W. W. Norton & Company, 1936.—xi, 316 pp. $3.00.

Professor Brinton's study has the unusual distinction of re-creating—or perhaps creating—a Talleyrand who is many removes apart from the legendary rascal of the conventional biographies. While Talleyrand's assumption of a new rôle is quite in keeping with the spirit of his own observation that *on ne prête qu'aux riches,* perhaps the reader may find the metamorphosis more difficult to recognize. Unconcerned himself over the minutiae of the learned controversies over Talleyrand's particular deeds, Mr. Brinton is deeply interested in the interpretations of those deeds. We are indeed indebted to

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him for some exceedingly acute observations on the genesis and growth of the malodorous Talleyrand legend. Talleyrand, he feels, has been sacrificed on the altars of the great fallacy of modern thought, the fallacy of assuming a direct correspondence between men's words and their deeds. Precisely because he never subscribed naïvely to the fashionable abstractions about liberty, justice, virtue and the rest, and was eminently successful without using them as a shield for his acts, historians have assumed that he was the very incarnation of their opposites. Brinton, however, sees him as a pillar of sanity, discrimination and exquisite refinement in a world overrun by nature-drunk Jacobins, ideologues and romantics, rash enthusiasts and seraphic mystics. Not that he glosses over his subject's less admirable traits. Indeed he is uneasily aware that the old rogue sacrificed nothing in the way of fame, fortune or security while working "in the best interests of France and Europe." He recognizes the fact that Talleyrand used abstractions for what they were worth to manipulate men and get power for himself. But he admires Talleyrand's technical skill in working through the medium of men, and he extolls Talleyrand's values and attitudes as virtues sadly lacking in our contemporary world where modern-day doctrinaires and enthusiasts (i. e., Marxists both orthodox and "coördinated") threaten to make as thorough a shambles of our civilization as the eighteenth-century innovators did in the world whose "douceur" Talleyrand lived long enough to regret.

Mr. Brinton makes his case for the rehabilitation of the maligned diplomat with the literary skill which we have come to expect from his pen: a smooth, limpid prose, urbane humor, vivacity and flashes of wit. If at times he overstrains his sense of the paradoxical, it is perhaps *pour épater le bourgeois* among his readers who still clings to illusions which he himself has put away. In a more formal biography his sociological generalizations might seem extraneous, but here they are the very essence of the volume, for the essay is as much autobiography as biography.

It may well be, indeed most likely is true, that Talleyrand had the virtues of moderation, deep regard for traditions coupled with an easy adaptability, refined taste and pragmatic intelligence; that he used his talents in the cause of equilibrium and balance, safety and stability, "to make France and Europe more agreeable places for sensible people to live in." But it is not readily apparent that his lives were more admirable, as Mr. Brinton feels they are, than the aspirations of men wanting in Talleyrand's urbanity. Naturally,

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one cannot expect the author who admires the detached serenity of Montaigne (with just a touch of the tart La Rochefoucauld) to condone dialectic-enfolded Marxists. It is too much to ask any one with sensitive intelligence and refined sensibilities to proclaim his preference for violence and chaos, poor logic, bad taste, and even worse manners. But these innovators tried then, and are trying now, also to make the world "a more agreeable place for sensible people to live in." It is unfortunate that they cannot conduct their effort more gracefully than they do; but it is legitimate to inquire how much of the responsibility for their weaknesses rests with the self-seeking Talleyrands of the earth.

LEO GERSHOY

SARAH LAWRENCE COLLEGE

The Press and World Affairs. By ROBERT W. DESMOND. New York and London, D. Appleton-Century Co., 1937.—xxv, 421 pp. $3.25.

Although both will heatedly deny it, the newspaper man and the scholar are engaged in essentially the same task: collecting accurate information. The fact that they work in different fields, which require different methods and manners, should not obscure the essential similarity of their labor.

In *The Press and World Affairs* the two are brought together. Mr. Desmond has written the first comprehensive book on how news of the world's public affairs is gathered, written, transmitted, edited and published. Because of his experience as foreign correspondent for the *Christian Science Monitor* he is able to report with authority and understanding the processes he describes; because of his academic training, which includes the doctor's degree from the London School of Economics and Political Science, he is able to present his information in a form which merits the respect of the scholar.

Mr. Desmond begins with what amounts to a brief history of journalism, although because of his purpose these chapters are concentrated largely on the growth and structure of press associations and the other machinery for transmitting foreign news. There follows a detailed picture of the collection and transmission of foreign and national news today. Mr. Desmond shows the correspondent in the world's great news centers going step by step through his working day, thereby revealing the practical details of what he does and how he gets his news. Always the news is followed through to the end, down to a description of the route and means of transmission by

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which it is brought to the newspaper, there to be rejected or edited for the reader. There are illustrations of cable systems and press association networks, and excellent reproductions of the front pages of many of the world's newspapers which figure in the story.

The author gives one chapter to what he calls "Autocrats of the Press". In addition to the anti-social publisher, so familiar to academic discussion of the subject, he describes two other autocrats: those who make the newspapers, in particular the copy readers and responsible editors, and finally the reader—the greatest autocrat of all. Two fragments, which should be read in their full context, serve to indicate the author's contact with the realities of newspaper work. First, "Editors and publishers have had enough of such disillusioning experiences to make them doubt the popularity of the truth in print"; and second, "A conventional assumption by critics of the press is that all facts may be verified completely, and presented so convincingly and interestingly as to move even the most mentally blind and cloddish reader to act in his own best interests. In this belief, the critics delude themselves." There is, however, little philosophizing, little editorializing, in Mr. Desmond's work. He sticks to reporting, or if you will, to research. Perhaps because of this he has written a book which neither newspaper man nor scholar can afford to miss.

HERBERT BRUCKER

COLUMBIA UNIVERSITY

The Civil War and Reconstruction. By J. G. RANDALL. Boston, D. C. Heath and Company, 1937.—xvii, 959 pp. $4.50.

Although much has been written about the Civil War and Reconstruction, especially in these later years when the reappraisal of both periods has been so extensive, there is a place for a synthesis such as Professor Randall's book, particularly when it is a work of soundness and readability. Based on extensive research over a number of years, this study brings a balanced view of the most critical struggle through which the United States has passed.

Beginning with a sketch of the two sections involved in the controversy and a survey of the decade or so preceding Secession, the volume is devoted chiefly to the War and its problem, North and South. Indeed nearly half the book deals with the four years of the armed conflict. All aspects are treated: political and constitutional phases *in extenso,* military adequately but not too predominately, economic issues, diplomatic questions, and, withal, some attention to the impact of the War on the life of the people in general.

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Two hundred pages are devoted to the twelve years of Reconstruction, a rather more scanty treatment proportionally than is given to the rest of the subject. A voluminous bibliography affords the reader a comprehensive list of all of the major titles, together with many of the more obscure items necessary for understanding the topic, while a bibliographical note calls attention to the principal printed guides and publications of primary materials.

If one may say that there is a theme running through this work, it is the idea that political blundering, even stupidity, marked the course of those who allowed a controversy which might have been settled without recourse to arms to degenerate into a war between sections. The conflict, it is true, did preserve the Union, but at a cost incalculable and without really solving the problems which produced the crisis. A secondary theme is not new to those who have followed the writing on Reconstruction during the past twenty or thirty years: the course of the "Vindictives", as Randall designates Radicals of the stamp of Stevens, Sumner, Boutwell or Wade, intensified the bitterness which the War and its preliminaries had engendered and postponed for years an opportunity for healing of wounds. In making these statements there is no intention of conveying the idea that the author writes "from a point of view", for his analysis is based on the best historical canons; he tells the story as it is revealed in his sources but does not hesitate to express his opinion of men and events. Personalities, some of them, appear in light different from that which was shed by writers of a generation ago. Buchanan, for example, shows up in a much better appearance than staunch Unionists were wont to depict him some years back; he no longer appears as the pro-Southern weakling but as a man who genuinely strove to avert disunion. On the other hand some of those who have been considered bulwarks of the nation are shown to have been narrow and self-seeking, adamant toward reasonable compromise and often animated by a vindictiveness which rendered adjustment impossible.

Most of these conclusions, it is true, have come out in monographs, and anyone who took the pains could reach Professor Randall's conclusions. The fact remains, however, that this specialized writing finds a very limited reading public, and error, once promulgated for whatever purpose, persists in the general thinking. This bringing together of the results of research of a wide range of investigators in a single volume complements the original work and makes available to a wide audience what never otherwise would have been brought to their attention.

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For years Rhodes's seven-volume work on the period from 1850 to 1877 has been considered the standard comprehensive study of the Civil War and Reconstruction; now Randall's work, more condensed though it is, may well supplant it because of its less biased treatment, its use of materials not accessible to Rhodes and its convenience in being confined to one volume.

Any reader familiar with the field probably can pick out points here and there and find something to modify; in assigning the reasons for moving the Confederate capital from Montgomery to Richmond (p. 346), in ascribing the continued eclipse of the American merchant marine solely to the activities of the rebel cruisers (p. 590) might be illustrations. To the present reviewer, however, these lapses are so infrequent and so relatively unimportant that he can complete his comments only by paying tribute in the heartiest manner to a scholarly and well-written book.

LESTER BURRELL SHIPPEE

UNIVERSITY OF MINNESOTA

Divided We Stand: The Crisis of a Frontierless Democracy. By WALTER PRESCOTT WEBB. New York and Toronto, Farrar and Rinehart, Inc., 1937.—vii, 239 pp. $2.50.

This book revolves about two ideas: first, that the United States of today is divided into three distinct sections, the North, the South and the West, with the North everywhere in supreme economic command; and secondly, that the modern corporation, protected as it is by the judicial assumption that a corporation is a person within the meaning of the Constitution, has become the chief problem of the nation. The disappearance of the frontier is brought into the picture because, in the author's judgment, the frontier has always before furnished a way out of American difficulties, a way out that no longer exists.

The three sections into which Professor Webb divides the United States have somewhat artificial boundaries, as the author himself admits. The North, as he describes it, is composed of the states lying to the north of the Ohio-Potomac river line, and including to the west Missouri, Iowa and Minnesota. The South consists of the old slave states, minus Delaware, Maryland and Missouri. The West is all the rest. Obviously, the classification of such states as Missouri, West Virginia and Texas is extremely baffling, but the author's contention that a disproportionate share of the nation's wealth is concentrated in the northeastern states would not be in-

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validated by the shifting of a few border states one way or another. It is perhaps a little more open to question whether or not the north-eastern states hold the South and the West in a kind of feudal vassalage. To Webb, however, there is no question about it, and he supplies endless charts and figures to prove that the North as a section lives in considerable part by exploiting the South and the West. Had he chosen, he might have cited his book as an example of the kind of tribute that the North exacts, in this case because of its virtual monopoly of the bookmaking business. Written by a Texan, *Divided We Stand* was published by a New York firm, and printed in New Jersey. All the South gets out of it, presumably, is Mr. Webb's fifteen per cent; maybe not even that. The rest goes to enrich the North.

This peculiar enslavement of the South and West, however, is almost matched by a general enslavement of nearly everyone everywhere to the various corporations who, according to Professor Webb, are the real rulers of the United States. The ascendancy of the corporation, he maintains, dates back to 1886 when Chief Justice Waite in the case of *Santa Clara County* vs. *Southern Pacific Railroad* held that the provisions of the Fourteenth Amendment applied to corporations as well as to natural persons. Later, the Court upheld the power of the government to fix railroad rates, provided that such rates were reasonable; that is to say, provided that they yielded a profit. The logical result of this decision, Webb argues, was that the government, in effect, guaranteed profits to such corporations as were subject to regulation, "something it has not attempted to do for any other class — for any real person. The government had moved from the position of *not* interfering with corporations, or not permitting the states to interfere, to that of interfering in their behalf and giving them preferential treatment." Free competition was thus eliminated, and the reign of the corporation was on. "The farmers, laborers, and small merchants" of the North were "caught in the same net as their fellows in the South and West, but with the difference that they reap some advantage by being near the barons of business, parts of the humming machines."

As Professor Webb sees it, the future historian will narrate American History under two headings. The first will be "The American Frontier, 1607-1890"; the second, "The Modern American Corporation". In both periods the government gave generous aid to its citizens. *"The truth is that American democracy was founded on government relief* and that it existed for many classes until 1890.

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The trouble to-day is not that relief was begun in 1933, but that it was stopped for some in 1890 and continued for others." Cheap lands or free lands, one traditional form of American relief, have since about 1890 amounted to a liability rather than an asset to the recipient. But other standard forms of relief, such as the tariff, patents and pensions, have continued. Thus manufacturers, for example, retained their government relief "while the other classes were dropped from the rolls".

"Is There a Way Out?" This is the question Professor Webb poses in his final chapter. One way out—an unwanted way—would be to turn the government over to the corporations so that they would have responsibility as well as power. Better by far would be the adoption of a "good neighbor" policy which would restore "to all sections and classes of the American democracy a semblance of equal economic opportunity". Unfortunately, the author is unable to tell us just how this last is to be done, but at least he has given us something to think about.

JOHN D. HICKS

THE UNIVERSITY OF WISCONSIN

The Colonial Problem: A Report by a Study Group of Members of the Royal Institute of International Affairs. London, New York, Toronto, Oxford University Press, 1937.—xiv, 448 pp. $8.50.

Most of the contents of this volume first appeared in a series of data papers presented by the British group to the International Studies Conference held at Paris in July 1937, on the subject of "Peaceful Change". The volume is therefore oriented to the problem of satisfying the "have not" powers through colonial redistribution or other modifications of colonial status or policy.

In general the book supports the conclusion of the well-known volumes by Grover Clark that colonies are relatively unimportant as sources of raw material, as markets, or as population outlets and have in fact rarely been economically paying propositions to the colonial powers. The latter conclusion, however, is qualified by the warning that the question "Do colonies pay?" should not be answered on such a narrow basis. Colonial development may benefit third states whose trade may be enlarged without administrative or military charge, it may benefit the natives by increasing their standard of life, it may benefit certain classes of the colonial power at the expense of the general taxpayer. Thus we are left to conclude

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that economically the average taxpayer of a colonial power is altruistically giving of his substance for the benefit of others. He may get some military advantage from his colonies but even this is frequently discounted by the military burdens of defending them. Thus his main advantage may be the subjective satisfaction in the prestige acquired by his state through growing on the map and through shouldering new responsibilities.

Such proposals as establishment of a general régime of the open door not only for trade and investment but also for government services, extension of mandatory or other international guaranties to all colonies, transfer of mandates or colonies are discussed with the conclusion that the disadvantages exceed the advantages for all but the first. In connection with transfers the much-debated problem of the sovereignty of the mandated territories is discussed, and, while the legal analysis of the problem leaves much to be desired, its complexity is indicated. The writers appear to accept the British official position that the consent of the Mandatory, of the League Council, of the principal Allied and Associated Powers, and the acquiescence of the inhabitants of the area would be necessary to effect such a transfer.

While the center of immediate interest of the volume is in the first part, dealing with "The International Aspect", attention is also given to "The Colonial Aspect". The problem of improving the condition of the colonial population is considered to be the real heart of the colonial problem. More and more all colonial powers have sought to justify their administration on the basis of the interests of the natives. This section contains acute observations on the movements of colonial populations, the labor problem in colonies, the methods of economic development and of administration, and the trend toward self-determination.

The third and last part of the volume deals with investments, trade, raw materials, public finance, European settlement and employment in colonies. This discussion, supplemented by detailed statistical tables in the appendices, indicates the relative unimportance of colonies in world economy at the present time, although the writers do not ignore the possibilities of development, drawing attention to the fact that the United States, once a colony, now has a foreign trade almost as great as that of all the colonial territories of the world put together. There is a detailed analysis of the possibilities of colonial areas for white settlement. The tables make it clear that, apart from Japan and the United States, colonial powers by no means monopolize the trade of their colonies (pp. 294-295), and in

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no case is the colonial trade more than a fraction of the colonial power's total external trade (pp. 410 *et seq.*) Even Great Britain has only 36 per cent of her total trade with her colonies and dominions. France has 14 per cent, the Netherlands 6 per cent, Italy less than 2 per cent, Japan 17 per cent, and the United States 7 per cent. It is interesting to note that except in the case of Japan, which practically monopolizes the trade of her mandated islands, the mandatory powers get a smaller per cent of the trade of their mandated territories than they do of their colonies and protectorates, thus suggesting that the open door in mandated territories has a meaning. (The table on page 73 does not seem to be consistent with the table on page 295.)

A study of this book should convince anyone who still needed to be convinced that no manipulation of colonies will remedy the economic problem of contemporary aggressor nations. This problem flows from uneconomic politics designed to increase military power and invulnerability. Colonial changes other than a wide application of the open door, perhaps assured by a more explicit international guaranty, would be of value to these powers, mainly as evidence that they had acquired the diplomatic and military power successfully to make such a demand. Thus it is not likely that such a change would contribute to world peace. The authors of this volume assume that the welfare of the native populations should be the prime consideration, and consequently raise a doubt whether administrative authority should be given to powers claiming racial superiority and repudiating the principle of what Lord Lugard called the "dual mandate", that is, the obligation to administer the colonies for the benefit of the native populations and of the world as a whole. If this standard is adopted, the authors insist upon the importance of a gradual growth of common standards of colonial administration because "each of the colonial powers is subjected to the same sort of criticism whether from within or from without. Each suffers from the other's mistakes." Therefore, "the universal adoption of certain basic principles of justice toward non-colonial powers and toward subject peoples is dictated by common prudence, as well as by the more generous ideals of progressive civilization" (p. 271). The authors recognize the contribution made by the mandate system toward such common standards, not only in the mandated territories but in the colonies.

QUINCY WRIGHT

THE UNIVERSITY OF CHICAGO

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Western Lands and The American Revolution. By THOMAS PERKINS ABERNETHY. New York and London, D. Appleton-Century Company, 1937.—xvi, 413 pp. $4.00.

Nobody will ever read this book for sheer enjoyment. On the other hand, nobody who is interested in westward expansion in the United States between 1749 and 1789 can afford not to read it.

The title is a misnomer. The book should have been called "Virginia's claims to western lands, and the effect of those claims upon the American Revolution". As such, it is a masterly study; but it does not include everything suggested by its title. Pennsylvania's claims to certain of the territories also claimed by Virginia are cavalierly treated, to say the least; and the claims of other states to lands in the West are hardly mentioned. The book might well throw more light on the effect of the problem of Western lands upon state constitutions; it might give more adequate attention to the influence of the land factor upon the Articles of Confederation; it might say more about the influence of Western lands upon American diplomacy, and say it more clearly; it might say a good deal more about the Western lands problem and the formulation of the Federal Constitution; but it does not. The broader aspect of the problem of Western lands, as a factor in the winning of independence and the establishment of the American union, remains to be treated.

The book does present certain provocative commentaries on the period of the American Revolution. Such, for example, is the author's thesis that the division in the Continental Congress over the question of Western lands was not a division between large states and small states, but a contest "between certain States claiming Western lands for themselves, on one side, and those claiming it [*sic*] in the interest of certain land companies on the other, the middle group of States being controlled largely by members of the great land companies" (p. 172).

Again, the picture painted here of Silas Deane and Benjamin Franklin, American diplomats at Paris, is pretty black. It is a picture of the selfish speculation and of the disloyalty, if not petty treachery, of Deane and Franklin toward their colleague from Virginia, Arthur Lee. Much of the tarring of Franklin and Deane is extraneous to the subject of the book; but the statement that "Franklin's organization in Europe was made up largely of his Vandalia associates, and Lee's hostility to them may well have grown

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out of his old hostility to that company" (p. 216) throws an interesting light upon Franklin and his mission, and suggests a good deal with regard to this aspect of American diplomacy.

The book is valuable, also, because of its attempt to correct the old thesis that it was fear for its Western lands that led Virginia into the Revolution. Mr. Abernethy has not quite established his contention that the consideration of Western lands had nothing to do with it; but he makes clear that the thing that Virginia most desired from the Revolution, as, indeed, did all the other rebellious colonies, was "the non-interference of Parliament in their local government and the continuance of all their ancient privileges" (p. 161). Mr. Abernethy also shows that the "glorification of democracy—especially Western democracy—has become something of a cult with many historians" (p. 367); more of a cult, indeed, than a reality.

The old conflict between Virginia and its rivals for Western lands will never be satisfactorily settled on the basis of legality. In his effort to whitewash the Virginia title at the expense of Pennsylvania and New York, the author neglects, almost completely, the legal validity, such as it was, of the claims of those states; when he attributes the support Pennsylvania and New Jersey gave the land companies entirely to the political influence of those companies, he overlooks the genuineness of their interest in constitutional principles and discounts the sincerity of their leaders. When he states that "the British government had never recognized the sovereignty of the natives over any soil whatever" (p. 21), one pauses to wonder why the land was "purchased" from the Indians at so many formal treaties. As a matter of fact, the contention that the Iroquois were sovereign over their lands was made the basis of British claims to western New York and the upper Ohio Valley, under Article XV of the Treaty of Utrecht, in a diplomatic contest with France that lasted nearly one hundred years.

As to the validity of the rival claims to the West, as Mr. Abernethy himself says, "the inquiry may amuse us but the decision leaves us no wiser" (p. 368). The truth probably is that neither Virginia nor any other state had a genuinely valid legal claim, in 1776, to any of the lands west of the Allegheny mountains. We still await a broad study of the problem of Western lands and the American Revolution.

MAX SAVELLE

STANFORD UNIVERSITY

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BOOK NOTES

American political institutions, as designed by the founding fathers in the Philadelphia convention, have undergone but little formal or structural change. In practice the working of the institutions has been profoundly modified. Change has not been consistent. Institutions have waxed and waned and then waxed again. Or the process has been reversed. Legal authority has remained the same and influence has changed. Legal authority has been increased or lessened, and influence has been the same. The developments in connection with the Chief Executive (who has become as well the Chief Legislator) of the United States are described historically in Professor W. E. Binkley's *The Powers of the President: Problems of American Democracy* (Garden City, Doubleday, Doran & Co., 1937; xiv, 332 pp. $2.50). Which Presidents were "weak"? Which were "strong"? When were the strains on institutions most severe? When was change accelerated? To these questions Mr. Binkley's readable book gives satisfactory answers. In respect of presidential power, crisis has usually been synonymous with war. Under Lincoln and Woodrow Wilson, there were vast extensions of federal control and enormous aggrandizements of presidential authority. (It is curious that almost all that Mr. Binkley says of Wilson goes to the pre-war leadership of Congress.) In each case, when peace came the pendulum swung backwards, even beyond the point at which it had been when it moved to meet the inexorable demand for speedy decisions and courageous action. The economic depression of the early nineteen thirties made on the machinery of representative government demands greater than those made by war. During the conflict of 1914-1918, an oversimplification stated the issue in terms of democracy versus autocracy. The democratic states won. They made their institutions work efficiently, but flexibly enough to nurture an initiative and intellectual energy which successfully withstood the rigid discipline of the more authoritarian enemies. Is the American democracy fitted to wage a war on economic misery? That question confronts a government which has just passed the age of seven score and ten. The answer will be given from the White House, rather

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than from the chambers at the other end of Pennsylvania Avenue. "Powers" will be unimportant. Policies will be decisive, and their success will depend in large measure on the efficiency of the instruments used in formulating and carrying them—instruments which we do not yet have. To these matters Mr. Binkley does not devote himself. He is an historian not an evangelist.—LINDSAY ROGERS.

For many years Professor William E. Dodd has been at work on a comprehensive history of the Old South. In *The Old South: Struggles for Democracy* (New York, The Macmillan Company, 1937; xiv, 312 pp. $3.75), his first volume, the story is carried practically through the seventeenth century and deals, therefore, with the beginnings of Virginia, Maryland and the Carolinas. The early struggles for freedom in the New World constitute the central theme, and it is one which has been the subject of considerable debate. There are those who can see little but lawlessness in the reluctance of the colonists to pay quitrents, conform to navigation acts, and obey imperious governors. Professor Dodd sees in all this the beginnings of American independence. The period covered by this volume—1607 to 1689—is almost exactly the same as that which witnessed the rise and culmination of the struggles against Stuart autocracy. The author treats this as an imperial rather than merely an English question and shows that, from the time of Sir Edwin Sandys to the overthrow of the British régime in Virginia, there was a close relation between American and English developments. From the very beginning, the Virginia House of Burgesses insisted on its right to control local taxation and legislation, just as the House of Commons was contending for similar powers in England; and it may safely be said that George Mason's bill of rights had an English as well as an American background. The religious, economic and political inducements held out by colonial magnates in order to attract settlers were such as appeal to men who desire freedom, and though the claims which the Americans set up to the "rights of Englishmen" often went beyond anything which could have found acceptance at home, yet their pretensions were frequently supported by royal and proprietary promises. Lawlessness was not wanting, but neither were constructive ideals of local self-government. Professor Dodd has stressed not only the relations between English and colonial history, but has brought out much that is interesting and new regarding interrelations of the colonies themselves. Leading characters are sufficiently developed to endow them with the breath of reality; and many of them, with their relations, serve to connect the

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different threads of the story. History is a tangled web of fact. Professor Dodd has chosen his strands so as to present a pattern that is neither too complex nor too simple. Little effort is made to impress the reader with the scholarship involved; every effort is exerted to re-create the scene in all its colors but with emphasis upon the theme democracy. It is clear that Professor Dodd's experiences as ambassador to Germany gave him added appreciation of a democratic government. The entire book shows the penetration and skill which we have come to expect of the author.—THOMAS PERKINS ABERNETHY, University of Virginia.

Although Henry Wheaton's name is familiar to lawyers generally by virtue of his work as reporter of the Supreme Court of the United States, his recent biography, entitled *Henry Wheaton, 1785-1848* (Philadelphia, University of Pennsylvania Press, 1937; x, 425 pp. $4.00) by Elizabeth Feaster Baker, will be of value primarily to students of international law and diplomacy. Those whose recollection of Wheaton may have grown dim through the study of the works of other authors are reminded that it was through his *Elements of International Law,* first published in 1836, that "for the first time the principles underlying international law were brought together in a book written in English" (p. 148). The popularity of this outstanding work led to its republication, and although the publication of revised editions was prevented during a period after Wheaton's death because of a copyright controversy, its reputation has survived down through the years. Other works by Wheaton, most of them likewise in the international field, have added to his reputation. The author of the biography has not attempted to write a personal and intimate study, but has presented instead an account of a career and the public events with which it was connected. It is perhaps a consequence of the mode of approach that the subject appears but seldom as a vital human being, and impresses the reader as a largely undifferentiated item in the exposition of legal and political principles, the argument of cases, and the conduct of diplomatic arrangements with foreign powers. The latter experience began with Wheaton's appointment as chargé d'affaires to Denmark in 1827. He represented the United States at Berlin from 1836 until the date of his recall ten years later. Aspects of the diplomacy of the period are presented in detail, and the material, in addition to its value as history, has the merit of showing in part the experiences which qualified Wheaton as a spokesman on international affairs. His earlier career as a lawyer was begun in Providence, Rhode Island,

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where he had been born in 1785. He moved to New York in 1812, and was made editor of *The National Advocate,* a Tammany organ established at that time to support James Madison against De Witt Clinton. Before resigning from this position in 1815 he began the argument of cases before the Supreme Court of the United States, usually on matters involving international law. Friendship with Justice Story proved a stimulant to study and publication in the field. He served as reporter for the Supreme Court from 1816 to 1827. He reported decisions therefore during an important segment of the chief-justiceship of John Marshall. As a result his name is known to thousands to whom it would otherwise be unfamiliar, because of its position on twelve important volumes of Supreme Court Reports. The task called for little originality, however, and only in the matter of the addition of notes was the reporter able to make an independent contribution.—CARL BRENT SWISHER, The Johns Hopkins University.

In *American Foreign Policy in Canadian Relations* (New York, The Macmillan Company, 1937; x, 576 pp. $4.00) Professor James Morton Callahan, a respected and prolific pioneer in the monographic literature of American diplomacy, essays the formidable task of surveying the diplomatic relations of the United States involving Canada. His book is generally accurate, sternly dispassionate, and fairly well proportioned. It will provide a useful corrective to, though it will not wholly supplant, Keenleyside's *Canada and the United States.* Faithful to the traditions of old-school diplomatic writing, the author presents what is primarily a digest of the official correspondence. He is little concerned with backgrounds or with public opinion on either side of the border. One curious result is that there is no hint that the Canadian people viewed the Maine, Oregon and Alaska boundary settlements with acute dissatisfaction. From the standpoint of scholarship the chief defect of the book is an incomprehensible ignoring of a large number of the most important monographic contributions on the subject. Professor Callahan apparently has set out to examine the entire subject *de novo* (as if this could be done thoroughly by one man); and the documentation attests to an impressive amount of research in the archives of the United States, England and Canada. While no one will fail to applaud the author's zest for manuscript sources, it would seem to be a primary obligation of an investigator to discover what others have found, often after lifetimes of research, and build on their foundations. In many of his chapters Professor Callahan unfor-

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tunately does not hold the ground already gained. To take only one example, he apparently has not consulted and certainly does not cite the outstanding articles on Oregon by Professor Merk. Thus the new information presented is not commensurate with the labor involved. There are, however, revealing chapters on some of the less well-known problems. After such extensive labor with the documents it would have been entirely proper for the author to give us his interpretation of events and policies. Yet only occasionally does he use a word or phrase that reveals his own attitude, most unhappily when he says that Roosevelt "judiciously" appointed Lodge, Turner and Root to the Alaska boundary tribunal. Beyond this he rarely goes. The annalistic presentation of a large number of subjects, many of them intrinsically dull, combined with an involved and somewhat unimaginative style, does not invite sustained reading. Left to wrestle with the facts, the reader can hardly fail to lay down this tale of tangled negotiations over such subjects as fisheries, boundaries, reciprocity, furs, extradition, waterways and transportation without forming at least one conclusion. Considering all the combustibles involved, as well as the difficulties attaching to triangular negotiations (until the 1920's Britain was always the official intermediary), the avoidance of more serious collisions is a remarkable tribute to the pacific disposition and good sense of the two peoples.—THOMAS A. BAILEY, Stanford University.

The recommendations of the British Commission on Palestine and the approving action of the League of Nations modify all prior suggestions concerning the Jewish-Arab solution in Palestine, but do not change the underlying basis of conflict. The book by thirteen able Jewish writers of the Labor group in Palestine—*Jews and Arabs in Palestine,* edited by Enzo Sereni and R. E. Ashery (New York, Hechalutz Press, 1936; 101a, 315 pp.)—deals with both aspects of the problem. The causes can be removed by no artificial political division, but the authors do not offer any tangible program that offers much alternative promise. While the case is presented from the Jewish point of view, the analyses are sound and the difficulties made clear. The British self-interest, the mixture of economics, religion and power in the hands of a small group of Arab landholders, together with the divisions of aims and ignorance of conditions on the part of the Jews, have created what seems to be an insoluble situation. The assertion is made that "under the British regime, for every yard that Jewish effort has gained, the British have contrived to push back Jewish achievement a foot or

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two." The Arabs, whose economic gains have been large as a result of Jewish settlement and investment, have found in that very fact a reason for increasing the power of the effendis, who have profited most, by inciting national hostility. Several of the chapters deal statistically with the improvement in wages of the Arab workers and make it clear that if economic advantage were logically accepted, the Arabs ought to rejoice in the presence of the Jews. The detailed description of the class organization of the Arabs is a key to the social manipulation which has resulted in the several outbreaks of hostilities. The avowedly Left point of view sees no possibility of changing the present archaic social organization until a new and awakened generation of Arabs realizes that the exploitation by the entrenched small group of landed persons must be stopped. The conflict between the historic claim of the Jews to the land and the shorter but no less historic claim of the Arabs is much more than an academic issue. The authors, who recognize the insuperable obstacles to the solution of Jewish-Arab relations, belong to the group that feels that its stake is just and that has no intention of yielding the claim. They admit that it is unfortunate that the majority of the Jews who first went to Palestine were unaware of the problem of social relations with Arabs. Even the riots and assassinations that so soon followed made them "proud that there is one precious spot where Jews can stand up like men and fight for their lives with the feeling that they belong to that place." This is a serious book written with heat and some bias, but with intelligence.—HERBERT A. MILLER, Bryn Mawr College.

Greater Shanghai, one of the world's great commercial centers, is composed of three distinct municipalities, two of them under the administration of foreigners. The jurisdictional complications resulting from this situation provide the theme for *The Shanghai Problem* (Stanford University, Stanford University Press; London, Humphrey Milford, Oxford University Press, 1937; xi, 326 pp. $3.00) by William C. Johnstone, Jr. The volume is divided into two parts, the first giving the history of the development of the three municipalities, the second dealing specifically with international problems. While the first section is called historical, it might equally be described as a description and analysis of the problem of government under these peculiar circumstances. It is this, even more than the historical treatment, which makes the book a real contribution. History, description and analysis are all essential to provide understanding of the legal, jurisdictional and governmental arrangements

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in force. The author brings out clearly the underlying difficulty, which is to be found in the failure to define exactly on a contractual basis the rights, powers and functions of the various sets of authorities and their relationship to one another. Thus there has been conflict on occasion between the consular body and the Municipal Council of the International Settlement, between one or both of them and the Chinese authorities at Shanghai, and between the local bodies and the diplomatic representatives of the Western states participating in the administration of the Settlement. The exclusiveness of French control in their Concession and the concentration of authority in the hands of the French consul have made the possibility of jurisdictional conflicts in that area less, without, however, altogether avoiding them. Much of this jurisdictional difficulty has centered in the arrangements for the administration of justice. These are, in turn, an outgrowth of the system of extraterritoriality. The author, consequently, devotes two chapters, at the end of part one, to the "Mixed Courts", and to the "Chinese Courts" which are of more recent establishment. These follow a competent description of the governmental and administrative systems of the three municipalities. The problems dealt with, as international problems, are: industrial and labor; settlement extension and extra-settlement roads; national representation in the Municipal Council of the International Settlement; the neutrality of the Settlement in China's civil wars; the new problem presented in 1932 with the Japanese invasion of Shanghai; and, finally, the problem of rendition of the Settlement and the Concession to Chinese control.—HAROLD M. VINACKE, University of Cincinnati.

In 1930 an International Scientific Committee on Price History was formed under the guidance of Professor Edwin F. Gay, then of Harvard University, and of Sir William H. Beveridge, of the London School of Economics, for the purpose of studying prices from the later middle ages to 1800. The book under review is the first published result of the Committee's activity — *Umriss einer Geschichte der Preise und Löhne in Deutschland vom ausgehenden Mittelalter bis zum Beginn des neunzehnten Jahrhunderts,* Erster Band, by M. J. Elsas (Leyden, A. M. Sijthoff's Uitgeversmaatschappij, 1936; x, 808 pp. 14 florins). Dr. Elsas' work is a model for the study of prices and wages. In discussing the problems involved in dealing with the subject, the author points out how important it is not only to secure price data but also information concerning coinage, weights and measures, wages in kind, hours of work,

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population, methods of marketing, political conditions, price fixing, and a hundred and one other things. The present book deals with prices and wages in Munich, Augsburg and Würzburg. Data were obtained from official city records, the account books of religious institutions, and market reports. They indicate that prices increased from 1500 to approximately 1622-23; decreased to about 1671; and increased from then to 1800. In the first period money wages lagged behind prices; in the second they did not fall with prices, so that real wages increased; and in the third they rose some but not so fast as prices. These general trends are liable to many exceptions and to short-term fluctuations.—SHEPARD B. CLOUGH.

The subject of *Der autoritäre Staat,* by Erich Voegelin (Vienna, Verlag von Julius Springer, 1936; vii, 289 pp. RM. 13.80), is the Austrian constitutional settlement of April 30, 1934, designed to combat the idea of the class struggle, to eliminate the dangers inherent in majority rule, and to prevent the advent of the totalitarian state by proclaiming the corporate state. Not quite three months after the "legitimate", but illegal, enactment of this constitution, Chancellor Dollfuss was assassinated by a Nazi band, acting with German connivance. Von Schuschnigg, the actual and spiritual successor of Dollfuss, signed on July 11, 1936 a treaty with Germany, though, on the other hand he prohibited the circulation within Austria of the *Völkischer Beobachter,* the official paper of the Nazi government. Professor Hermann Kantorowicz, in his brilliant sociological study "Dictatorships" (*Politica,* August 1935), classified the "Austrian solution" as an administrative dictatorship of which the police and the civil service were the real support. This autocratic control and the bloodshed that preceded the establishment of the "authoritarian state" find no place in Professor Voegelin's learned discussion. He presents the suggestions of Hegel (1832), Earl Grey (1864) and Renan (1870) for the mitigation of what they anticipated as the defects of a parliamentary rule, and he analyzes the "Austrian solution" along parallel lines. Such a treatment is far from being uninteresting, but it is hardly convincing. Take Renan, for example. His suggestions were partly dependent upon the assumed decline of the martial spirit in a democratized France. Yet the democratic French army belied his fears in the Great War, though his remedy had not been applied. Another, less definite, but compelling line of argument places the "Austrian solution" in its historical perspective, and thus renders it palatable, especially for racially composite countries. Bismarck called the "true people" a

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multitude of invisible souls. Joseph de Maistre wrote: "The government is the will of the nation more fully understood, than the nation itself is capable of understanding it." Even Louis Blanc thought the people ignorant of what it "ought to will". Professor Voegelin implicitly, without citing them, accepts these observations, and adds to them the one drawn from history—that the true people, or nation, is the product of a process of authoritarian integration. Austria, even in its post-war boundaries, did not attain the status of a nation; therefore it had to advance toward that goal by means of the authoritarian state. None of the previous constitutional arrangements were anything but phases of fluctuating antagonistic social and racial forces, held in an unstable equilibrium by the monarchy. Nothing was legitimate in the Dual Austro-Hungarian Monarchy but this function of the Crown. After its disappearance, nothing was legitimate but the anonymous authoritarian kernel that permeated the April Constitution of 1934. It is impossible to describe in a brief note the administrative devices that were to harness the diffused energies of truly patriotic elements in the population of Vienna and the eight "lands" with a total of about seven million people. The author himself is not always helpful. He refers to *Sinnzusammenhaenge, Sinnlinien, Sinnlage, Sinnschicht, Sinngehalt, Sinnenaccumulation,* all of which, perhaps, decorate the edifice without, however, consolidating it. It is sad to watch the contortions of a gifted mind laboring under authoritarian rule.—A. MEYENDORFF, Viborg, Finland.

The timely and suggestive volume—*Peaceful Change: A Study of International Procedures* by Frederick Sherwood Dunn (New York, Council on Foreign Relations, 1937; vii, 156 pp. $1.50)—was originally prepared by Professor Dunn of the Yale Institute of International Studies in preparation for the Tenth International Studies Conference which met in Paris in June 1937. The author was assisted by Dr. Helen M. Moats. Suggestions and comments were made by his colleagues, Professors Nicholas Spykman and Arnold Wolfers, and by the sub-committee of the American Coordinating Committee for International Studies, consisting of John Foster Dulles, Hamilton Fish Armstrong, Philip C. Jessup and Walter Lippmann with Professor Dunn as rapporteur. Although these collaborators subscribe to the conclusions set forth, it is clear that the valuable discussion of the problem of peaceful change which is here lucidly presented is the work of the author himself. Professor Dunn first surveys "the things for which nations profess to

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fight": power, prestige, honor, self-sufficiency and ethnic unity. He next deals with the problems of raw materials and population pressure and then with the procedures of peaceful change, from negotiation to adjudication. His more significant conclusions are that such procedures are irrelevant to demands for change growing out of "power politics"; that peace cannot be purchased by concessions to the "Have-Nots" or by redistributing colonies; that the raw material problem may be alleviated by the development of a code of fair practice, by consumer representation in all production control schemes, and by foreign credits to powers suffering from exchange difficulties (e. g., Germany) to enable them to buy the raw materials necessary to produce manufactures for export; that an extension of international administration of colonial areas might conceivably ameliorate friction over colonies; that exchange stabilization and freer international trade are imperative; and that unofficial advisory committees should be set up in each state to give preliminary study to all demands for international change as a means of evolving solutions compatible with the general welfare. These findings are eminently sane. The analysis upon which they are based is far in advance of most earlier efforts in that Professor Dunn is not hypnotized by legalism and recognizes the inapplicability of procedures of pacific change to the desiderata of *Realpolitik*. Orderly modifications of the status quo are possible only in a community united in the pursuit of common values, organized for the enforcement of law and dedicated to the attainment of justice through legislative action. The society of nations today is not a community but an anarchy, with its anarchic character becoming ever more pronounced as the totalitarian states subordinate all other values to preparations for military aggrandizement and the democratic powers shrink from all responsibility for enforcing law or maintaining justice. At the moment, therefore, "peaceful change" is an academic problem rather than an actual one, as Professor Dunn readily concedes. If a community of nations is ever reëstablished, effective procedures of non-violent change will be an indispensable part of a new world order. This volume looks forward hopefully to dawn after darkness. If dawn ever comes, these pages will be found among the more valuable blueprints of reconstruction.—FREDERICK L. SCHUMAN, Williams College.

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